

LUZMARIA ARROYO,)	Docket No. 12 C 06859
)	
Plaintiff,)	Chicago, Illinois
)	August 19, 2016
v.)	9:44 A.M.
)	
VOLVO PARTS NORTH AMERICA, LLC,)	
)	
Defendant.)	

APPEARANCES:

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Schroeder - Direct by Mr. DeRose

1 (The following proceedings were had in open court:)

2 THE COURT: Okay. Happy Friday to everybody. Please
3 be seated. So we're going to pick up where we left off
4 yesterday. Mr. Schroeder is still on the witness stand. And I
5 think Mr. DeRose has a few more questions for him it sounds
6 like, so go right ahead, sir.

7 MR. DeROSE: And Judge, I hope this will be rather
8 brief.

9 Judge, I'm going to show the witness Exhibit 246.
10 This has not been admitted yet.

11 THE COURT: It's not. But there is no objection in
12 the pretrial order, and it's an email from Mr. Schroeder, so
13 I'm going to cut to the chase here in a minute pursuant to the
14 pretrial order and you can publish it to the jury.

15 (Plaintiff's Exhibit 245 was received in evidence.)

16 THE COURT: Okay. Thank you, everybody. So you guys
17 can see that now?

18 MR. DeROSE: Yes.

19 THE COURT: Okay. Mr. DeRose.

20 MR. DeROSE: Thank you your Honor.

21 KEITH SCHROEDER, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN,

22 DIRECT EXAMINATION (Resumed)

23 BY MR. DeROSE:

24 Q Mr. Schroeder, at the very top of the email it looks like
25 you're sending this to Regina Williams. And you've already

Schroeder - Direct by Mr. DeRose

1 told us she was the HR partner that you were working with in
2 2011. And she was out of, I think you said --

3 A Atlanta, Georgia.

4 Q -- Atlanta, Georgia.

5 And she had been in Chicago about Ms. Arroyo just in
6 the last three weeks before that. You even met with her,
7 hadn't you?

8 A I believe we did. I don't know the specific dates, sir.

9 Q Well, you and Ms. Williams met with Ms. Arroyo several
10 times a couple of weeks before she got terminated, didn't you?

11 A I would have to see a document that validates that.

12 Q But don't you remember meeting with Ms. Williams without
13 looking at documents?

14 A Sir, it's five years ago. I can't be absolutely certain of
15 what meeting dates there were or who I met with.

16 Q I didn't ask about dates. I said, "Do you remember
17 meeting? You and Regina Williams and Arroyo."

18 MR. McMAHON: Objection. Asked and answered.

19 THE COURT: Well, not exactly. I'll overrule the
20 objection. See if you can ask just one last question.

21 Q Well, can you tell us, do you remember meeting with her?

22 A It's possible that we did. I don't recall exactly, sir.
23 Whether it was a meeting at my facility or via telephone. I
24 don't recall.

25 Q But anyway, on November 8th, you send her something you

Schroeder - Direct by Mr. DeRose

1 label as "Arroyo termination communication." What do those
2 words mean? "Termination communication."

3 A November 8th was the day that after we reviewed
4 Ms. Arroyo's attendance record -- I don't know if that was a
5 Tuesday or the prior week -- that based on her attendance that
6 there was to be a termination document. I sent this to Regina
7 Williams as to what our intent was to do that day to meet and
8 communicate the termination with Ms. Arroyo.

9 Q And you and Ms. Regina Williams had been talking for a
10 couple of three weeks about terminating Ms. Arroyo, hadn't you?

11 A I would have to see documents.

12 Q You can't remember talking to her before you sent her this
13 email?

14 A I don't recall specifically, sir.

15 Q The only thing you ever can remember is things you can see
16 in emails?

17 A Well, that's not true, sir. But this is five years ago. I
18 can't remember everything I did five years ago.

19 Q I didn't ask about everything. I'm only asking you, sir,
20 didn't you and Regina Williams agree that you were going to try
21 to terminate her two or three weeks earlier?

22 MR. McMAHON: Objection. Lack of foundation.

23 THE COURT: Overruled. They either did or didn't.

24 THE WITNESS: Sir, that can only be determined after a
25 review of the weekly payroll report and the attendance record

Schroeder - Direct by Mr. DeRose

1 by Mr. Temko whether there's under the policy that the rules
2 were violated, and if we had -- there were sufficient
3 occurrences to do that.

4 Q All right. So you're telling Regina that you got a plan to
5 have Patrick Dunne and Maureen Somersett meet Ms. Arroyo at the
6 locker room to request a meeting in the front conference room.

7 Why did you have to make a plan?

8 A A plan. Well, Ms. Arroyo worked the second shift. I
9 needed to meet with her at the start of the shift. And I just
10 asked Patrick and Maureen to meet her at the locker room when
11 she arrived at the facility.

12 Q But why had you set this all out in writing? So you must
13 have talked to them beforehand, right?

14 A I met with Patrick and Maureen, yes.

15 Q And then you asked the question of Ms. Williams way down
16 there in Atlanta, "What if Ms. Arroyo sees me and refuses to
17 meet?" Why did you ask that question?

18 A Sir, as the email says, it was based on her statement to me
19 on a previous day that, I believe it was -- I can't verbatim
20 read it to you, but she wasn't going to talk with me without
21 legal counsel, I believe.

22 Q And when did you and she have that conversation?

23 A I don't recall, sir.

24 Q Within just a couple of days before this?

25 A I don't know the exact date, sir.

Schroeder - Direct by Mr. DeRose

1 Q Is that the day that she told you she felt like you were
2 harassing her?

3 A I don't recall specifically, sir.

4 Q Is that the day she told you that she was afraid of you?

5 A I don't know that specifically. I can't remember that far
6 back.

7 Q Well, did you tell Regina Williams that Ms. Arroyo had told
8 you that in the future she would only talk to you with a lawyer
9 present?

10 A I don't know if it's the exact words, but that sounds
11 familiar.

12 Q But she said a little more. She said, "I'll only talk with
13 you when you want to talk to me about discipline," didn't she?

14 A That I'm not 100 percent sure, sir.

15 Q She never said, "I won't take orders from you or go pick
16 and pack where you tell me to do it," did she?

17 A Well, of course not. And that's not my role.

18 Q Were you a little put out when she said, "If I talk to you,
19 I have to have my lawyer present"?

20 A That was her choice, sir. I'm not put out.

21 Q Were you a little angry when she said that to you?

22 A Of course not.

23 Q How many days, approximately, before this date of
24 termination was it that she told you, "From now on I'm only
25 going to talk to you when I have my lawyer present"?

Schroeder - Direct by Mr. DeRose

1 A Sir, I don't recall the exact date. There was a day that
2 that that was said. I don't know exactly what day.

3 Q And then you say, "What if she refuses to meet with you?"

4 Had she ever in the past -- prior to November 8th of
5 2011, refused to meet with you?

6 A No.

7 Q She just said, "If you're to going to talk to me about
8 discipline, I have to have a lawyer present"?

9 A I don't recall the exact words, sir. I've already stated
10 that.

11 Q Well, why did you think she would refuse to meet with you
12 on November 8th?

13 A Because of her statement that she wanted to have legal
14 counsel.

15 Q You knew that she had asked the big boss that anytime she
16 meets with you, she wanted to have Patrick Dunne present and
17 Maureen Somersett, right?

18 A I don't recall the exact words. But those two individuals
19 were with me.

20 Q Sir, but the vice president told you that he agreed with
21 Ms. Arroyo that anytime she talked with you, she would either
22 have Patrick Dunne or Maureen Somersett present, right?

23 MR. McMAHON: Objection.

24 A I seem to remember that.

25 MR. McMAHON: He can answer.

Schroeder - Direct by Mr. DeRose

1 THE COURT: Okay.

2 BY MR. DeROSE:

3 Q You seem to remember that or the vice president actually
4 told you that?

5 A I don't remember the exact words, sir. It's five years
6 ago. If you show me a document that states that, I'll validate
7 that.

8 Q Sir, we don't often have emails to show people. I'm asking
9 you about your recollection.

10 A Okay.

11 Q Did you know that the vice president said anytime you were
12 going to meet with Ms. Arroyo, he had agreed that either
13 Patrick Dunn or Maureen Somersett would be present?

14 MR. McMAHON: Objection. Asked and answered.

15 THE COURT: Sustained.

16 BY MR. DeROSE:

17 Q Were you a little put out when the vice president told you
18 that was going to be a requirement?

19 A No.

20 Q How much before November 8th did he make that agreement
21 with Luzmaria Arroyo?

22 A I don't know the specific date. I don't recall.

23 Q Is it fair to say by November 1, you and she were in kind
24 of a strained relationship because she had been telling the big
25 boss about what was going on between you?

Schroeder - Direct by Mr. DeRose

1 A I knew that she raised a concern and a complaint. What
2 could I do about it? It is what it is.

3 Q Well, did you tell the boss, "She's getting to be a pain
4 for me"?

5 A No. Never.

6 Q You had written the boss that she had caused a morale
7 problem among your supervisors, hadn't you?

8 A I don't recall that specifically.

9 Q You did tell the boss that she was causing a morale problem
10 on the whole shift, didn't you?

11 A Sir, I don't recall that. If you would show me a document
12 to that, I will validate that.

13 Q You don't remember words you wrote. But you looked at all
14 of the emails in this case before coming here to testify,
15 correct?

16 MR. McMAHON: Objection. Vague.

17 THE COURT: Overruled.

18 MR. DeROSE: Caitlyn, can you find that one email?

19 Judge, it isn't worth the time. I will save it for
20 later.

21 BY MR. DeROSE:

22 Q But anyway, sir, you say, "I asked this based on her
23 statement to me on Friday," -- this is the following Tuesday, I
24 take it? Would that be right?

25 A That's what that says.

Schroeder - Direct by Mr. DeRose

1 Q All right. So the Friday before would have been what,
2 about November 4th? If this is Tuesday, November 8th?

3 A That seems correct.

4 Q All right. "So last Friday on November 4th we know, of
5 course, it's untrue. Can I make a statement that her legal
6 attorney" -- and I hope that's not what all of these things
7 are, but "her attorney confirmed to Volvo legal counsel that
8 she never instructed her client to make that statement?"

9 What statement are you talking about?

10 A I must have talked to our legal counsel, where they
11 confirmed that her statement that she wouldn't meet with
12 -- that she would not meet with me without legal counsel.

13 Q Your lawyer said she didn't make that statement?

14 A That's what it states here, sir.

15 Q So you were talking to your own lawyer --

16 A That she ever instructed her --

17 THE COURT REPORTER: Excuse me. I didn't get the
18 answer.

19 BY MS. DeROSE:

20 Q I take it you were talking to your own lawyer --

21 THE COURT REPORTER: Just one moment. I didn't get
22 the answer.

23 THE WITNESS: The email states that Volvo legal
24 counsel -- that she never instructed her client to make that
25 statement.

Schroeder - Direct by Mr. DeRose

1 Q So I take it in order to write this email, you weren't only
2 talking to Regina Williams, you were also talking to your legal
3 counsel about terminating Ms. Arroyo?

4 A I don't know what the source of that was.

5 Q Do you normally get that many people involved -- Mr. Dunn,
6 Ms. Somerset, legal counsel, the vice president and Regina
7 Williams involved -- when you're going to terminate an employee
8 for being one to three minute late?

9 A Well, first of all, over a period of time in her
10 attendance, there was more than just one and three minutes.
11 And the answer is termination is very serious, sir. I do need
12 to let my boss know what I'm doing. And I do need to talk to
13 human resources. And if they see -- if we determine that we
14 have to seek legal advice, yes, that is appropriate.

15 Q Do you have authority to fire someone without going to the
16 vice president of the company?

17 A It is my decision as director of that facility to make a
18 termination.

19 Q That didn't answer my question. Do you have authority to
20 fire someone at that facility where you've been manager for
21 many, many years without calling the vice president of the
22 company and checking with legal counsel?

23 A It is normal protocol to communicate that to the person I
24 report to and human resources.

25 Q Sir, could you answer my question? Can you fire a person

Schroeder - Direct by Mr. DeRose

1 on the spot if you want to?

2 A I've never done that, sir. I mean that's not something
3 that you do everyday. I would consult with human resources.

4 Q Is firing people something you rarely do?

5 A Of course not, sir.

6 Q Pardon.

7 A You asked me if that's something I readily do?

8 Q Rarely.

9 A It does happen.

10 Q In a given month, do you have the obligation to have to
11 fire at least one person per month or a couple of persons per
12 year?

13 A Of course not.

14 Q About how often do you fire someone over there?

15 A I don't recall. There have been some other terminations.

16 Q Do you get legal counsel involved before you fired those
17 people?

18 A I don't recall specifically. I know that I communicate
19 with my human resource business partner.

20 Q And you always have plans that you communicate that you're
21 going to bring one of your supervisors and Ms. Somerset in
22 when you want to fire the person?

23 A Sir, it is -- the supervisor of the employee is asked to be
24 there. They're a direct report. And Ms. Somerset, as my
25 administrative assistant, is often at communications like that,

Schroeder - Direct by Mr. DeRose

1 yes.

2 Q And then you ask -- you state, "We cannot afford to have a
3 scene." What kind of scene were you expecting to occur?

4 A Sir, based on what was told to me previously, I was not
5 100 percent certain that Ms. Arroyo would talk to me.

6 Q And that you would consider a scene?

7 A I did not want a scene to be created.

8 Q Well, what did you envision -- had you any idea if she
9 wouldn't talk to you, how that would be a scene, if she just
10 said, "I don't want to talk to you"?

11 A Surely you can understand that would be a difficult
12 situation that I wanted to avoid.

13 Q And you said "or for her to attempt to go to work."

14 What, you think she was going to make a scene and say,
15 "You can't fire me. I'm going to get on that picker-packer
16 machine and I'm going to go do the work"?

17 A I don't know that for certain, sir. It was based on her
18 statement that she wouldn't talk to me. I didn't know what
19 would happen.

20 Q Were you afraid of Ms. Arroyo?

21 A Of course not.

22 Q She never threatened to hurt you in any way, did she?

23 A No.

24 Q This kind of planning and getting people involved, do you
25 do this for every person you fire, or was she different?

Schroeder - Direct by Mr. DeRose

1 A She was not different. I mean, I have to speak to my human
2 resource business partner and tell her that I'm going to do
3 such a communication and keep her advised.

4 Q Did you ever tell her that you were afraid of a scene being
5 done by these other employees when you terminate them, or the
6 employee insisting that they're going to go to work when you,
7 the big boss of the plant, says "You're fired"?

8 A I don't recall that. It is never, ever a pleasant thing to
9 do to have to terminate someone.

10 Q I know. But you're -- I'm asking you about involving this
11 plan and all of these people to be involved and asking
12 questions, "What if she says, 'I'm going to work anyway?'" Are
13 you worried about that with every employee that you terminate?

14 A No.

15 Q Well, why were you worried about that with her?

16 A I was just making a statement that there may be a concern
17 if Ms. Arroyo refuses to talk to me.

18 Q Have you ever had any other employees in the building say,
19 "I will only talk to you about discipline with my lawyer
20 present"?

21 A No.

22 Q Did that tick you off a little bit?

23 A No, sir.

24 MS. DeROSE: Excuse me one moment, Judge.

25 Thank you, your Honor. I'm finished.

Schroeder - Cross by Mr. McMahon

1 THE COURT: Mr. McMahon.

2 THE WITNESS: Would you like this document back?

3 MR. DeROSE: No, I have my own copy.

4 THE COURT: If you want to collect all of the
5 documents you have there. When you're on the stand we are
6 going to hand them back to the plaintiff, because I think
7 that's where you got them all.

8 MR. McMAHON: You have to keep those there, I think,
9 for right now. I was actually going to go ahead and give
10 Mr. Schroeder a copy of our Exhibit Book.

11 THE COURT: Sure.

12 MR. McMAHON: There will be a few of ours that we will
13 reference, if that's okay.

14 May I approach?

15 THE COURT: Yes. Sure.

16 MR. McMAHON: Okay. Thank you.

17 CROSS-EXAMINATION

18 BY MR. McMAHON:

19 Q Sir, I will give you this. There will be a couple of
20 documents referenced in there as well.

21 Okay. Now, Mr. Schroeder, it is Friday, right?

22 A Yes, it is.

23 Q You've been here all week, right, in this trial?

24 A I have.

25 Q How many hours would you say we've put in this trial

Schroeder - Cross by Mr. McMahon

1 talking about emails from 2005, if you had to estimate?

2 A 25 to 30 hours.

3 Q 25 to 30 hours. Did any of the emails we looked at
4 throughout this trial have anything to do with why Ms. Arroyo
5 was terminated in November of 2011?

6 A No.

7 Q How many hours would you say we looked at emails that were
8 in 2006?

9 A Quite a few.

10 Q Quite a few. Did any of the email communications that were
11 exchanged in 2006 have anything to do with why Ms. Arroyo was
12 terminated in November 2011?

13 A They did not.

14 Q How about for 2007?

15 A They did not.

16 Q How about 2008?

17 A I don't believe so.

18 Q How about 2009?

19 A I don't believe so.

20 Q You testified earlier that Ms. Arroyo was terminated for
21 cumulative occurrences under the attendance policy?

22 A Correct.

23 Q What period of time did that cover?

24 A 2010 and 2011.

25 Q Okay. You mentioned that -- you were kind of discussing

Schroeder - Cross by Mr. McMahon

1 absenteeism generally, and if you remember, you were talking
2 about the fact that there were several days that Volvo gave
3 Ms. Arroyo for military leave, right?

4 A Yes. There were many days.

5 Q Okay. You mentioned in some of the emails -- and we are
6 going to look at specifics -- but you mentioned in some of them
7 that there was often instances of absenteeism that needed
8 clarification; is that right?

9 A Right.

10 Q When an employee is drilling, right, they have military
11 drills, is that a relatively long-term or short-term military
12 engagement?

13 A I believe it's typically short-term.

14 Q Kind of like a weekend, right?

15 A Right.

16 Q So conceivably if someone is on military drills and they're
17 also absent from work close in time to the military drills, you
18 may or may not know if that's covered as military leave or not,
19 right?

20 A I would not have known that.

21 Q In comparison, if someone like Ms. Arroyo is deployed
22 overseas for a good chunk of time, right? And we talked about
23 in this case how Ms. Arroyo was actually deployed twice while
24 she worked at Volvo, right?

25 A Correct.

Schroeder - Cross by Mr. McMahon

1 Q You know that the entirety of that time is protective
2 military, right?

3 A Of course.

4 Q So there's not this ambiguity of trying to figure out if
5 certain days are covered with military leave or not during those
6 chunks, right?

7 A That is correct.

8 Q Now, can you know if a particular time of leave is actually
9 covered as military leave before you get orders for that?

10 A I don't know that.

11 Q All right. In other words, you wouldn't have any reason to
12 know one way or another?

13 A Right.

14 Q So if you had an employee at your facility who was in
15 active duty reserves and they're absent from work, can you just
16 assume that they're absent from work because of their military
17 obligation?

18 A No.

19 Q You would need an order first, right?

20 A That would seem appropriate, yes.

21 Q And under USERRA, didn't Ms. Arroyo have a duty to provide
22 you with orders for her leave time?

23 A I believe so.

24 Q And if she didn't provide you with orders, you didn't have
25 a duty to provide her any leave, right?

Schroeder - Cross by Mr. McMahon

1 A Correct.

2 Q Now, Mr. DeRose spent a lot of time yesterday asking you
3 about certain statements you made in emails.

4 Do you remember that?

5 A Correct.

6 Q What I want to do today is look at some of these same
7 emails, but I want to ask you what actually happened as a
8 result of the communications.

9 Does that make sense?

10 A Yes.

11 THE COURT: All right. So first what I want to do if
12 we can -- could you switch over to defendant, please?

13 I would like to put up Plaintiff's Exhibit 19?

14 THE COURT: That's not it.

15 MR. McMAHON: No, sir. Those are our expert
16 witnesses.

17 (Laughter.)

18 THE WITNESS: Where would I get that document at?

19 BY MR. McMAHON:

20 Q It should be in your stack. If you could take a look at
21 Exhibit 19.

22 A Okay.

23 Q Could you go ahead and look at the very top of Page 2 of
24 that? That's the end of your email there, right?

25 A That's correct.

Schroeder - Cross by Mr. McMahon

1 Q What do you say in that first sentence? Can you read that
2 to the jury please?

3 A "We simply need to get all of the facts and take
4 appropriate action."

5 Q And in this email chain we're talking about certain days
6 that Ms. Arroyo has for military duty, right?

7 A Correct.

8 Q And at the same time we're talking about other days where
9 you're not quite sure if it's military duty or not?

10 A That's correct.

11 Q All right. Was Ms. Arroyo ever given an attendance
12 occurrence or discipline for any of these days that we're
13 talking about here?

14 A Absolutely not.

15 Q So you eventually resolved the issue and found out if it
16 was military leave or not?

17 A Correct.

18 Q So -- and this goes for not just this email but for some of
19 these other emails. At the time of these communications, did
20 you know the entirety of the body of USERRA law?

21 A No, I did not.

22 Q Okay. And you were asking questions from time to
23 time -- and we will get some other examples -- about the law,
24 right?

25 A I asked many, many questions to the different resources

Schroeder - Cross by Mr. McMahon

1 that I had.

2 Q And to your knowledge, is it okay to ask questions about
3 USERRA to other folks?

4 A Of course.

5 Q To try to get the right answer, right?

6 A Most important.

7 Q And you having these communications about what USERRA
8 provides for, did those have anything to do with why Ms. Arroyo
9 was terminated in November of 2011?

10 A Absolutely not.

11 Q Now, I want to look at a specific example from October of
12 2005.

13 If we could put up Plaintiff's Exhibit 21?

14 THE COURT: I assume every exhibit you are going to
15 use of the plaintiff is already in evidence.

16 MR. McMAHON: I believe that's correct.

17 THE COURT: If it's not, make sure you let Lynette
18 know.

19 MR. McMAHON: I will. Either that -- or we didn't
20 have on objection .

21 MR. DeROSE: Your Honor, I have no objection to them
22 using any exhibit in this case in the universe of this case.

23 THE COURT: Okay. That will make it easy for Lynette
24 then.

25 MR. McMAHON: Okay. Thank you.

Schroeder - Cross by Mr. McMahon

1 THE COURT: So it's Plaintiff's 21.

2 THE CLERK: There it is.

3 THE COURT: Okay. Thank you.

4 MR. McMAHON: And if we can go to the front page of
5 that document.

6 BY MR. McMAHON:

7 Q Now, Mr. Schroeder, do you see that document in front of
8 you?

9 THE COURT: Hold on one second.

10 MR. DeROSE: Judge, I can't get close enough to see
11 the screen. Okay. So you're -- we're getting a copy.

12 THE COURT: Your co-counsel is going to just hand you
13 copies as defense Counsel identifies them, then?

14 MR. DeROSE: Yes, Judge.

15 THE COURT: Okay. That will work out really well.
16 Thank you.

17 Okay, Mr. McMahon. I think we are good now.

18 MR. McMAHON: Thank you.

19 BY MR. McMAHON:

20 Q Now Mr. Schroeder, you remember being questioned about
21 this document yesterday, right?

22 A I believe so.

23 Q And, in fact, this was an email from you to Bruce Olin on
24 October 21st of 2005, correct?

25 A Correct.

Schroeder - Cross by Mr. McMahon

1 Q And you're trying to get Bruce Olin's advice on how to
2 handle this particular type of leave, right?

3 A Yes.

4 Q And one of the issues you were addressing here was whether
5 or not Volvo policy covered Ms. Arroyo's travel time for her
6 military obligations?

7 A Correct.

8 Q Okay. Was she ultimately given the travel time as a result
9 of this communication?

10 A Yes, of course.

11 Q So that wasn't discussed yesterday, but ultimately nothing
12 happened to Ms. Arroyo as a result of this communication,
13 right?

14 A No.

15 Q Okay. One question for you, Volvo has a military leave
16 policy. We heard testimony about that yesterday, right?

17 A Correct.

18 Q Does Volvo pay and offer some pay to its employees who go
19 on military leave?

20 A Yes, they do.

21 Q Under USERRA is that even required?

22 A No, I don't believe so.

23 Q So under USERRA it's unpaid leave?

24 A I believe so.

25 Q So Volvo's military leave policy goes above and beyond what

Schroeder - Cross by Mr. McMahon

1 USERRA requires in that regard?

2 A Yes.

3 Q All right. I would like to take -- or turn your attention
4 if I can, to Plaintiff's Exhibit 32. If you could get that up
5 in front of you. All right.

6 A Two pages?

7 Q I believe so. I want to direct your attention to just that
8 front page right now if we can. Do you see that?

9 A Yes.

10 Q And you were cc'd on this email, correct?

11 A Yes, I was.

12 Q And this is an email from Mr. Temko to Bruce Olin as well,
13 right?

14 A Correct.

15 Q Now, with respect to this, Mr. Temko is saying, "For our
16 planning/scheduling purposes, it would be beneficial for us to
17 know her status," right?

18 A Right.

19 Q And at the time Ms. Arroyo was deployed?

20 A Right.

21 Q Was Ms. Arroyo reinstated to her position after her
22 deployment ended at this time?

23 A Yes.

24 Q She came back to work at Volvo?

25 A Yes, she did.

Schroeder - Cross by Mr. McMahon

1 Q See was never terminated during that time period?

2 A No.

3 Q She wasn't suspended during that time period?

4 A No.

5 Q She wasn't disciplined for being on deployment?

6 A No.

7 Q She was brought back to work?

8 A Of course, yes.

9 Q Real quick question for you on Plaintiff's Exhibit 38, if
10 you could put that in front of you. Okay.

11 And we looked at this exhibit I would say quite a bit
12 this week in connection with Mr. Temko and yourself, right sir?

13 A Yes.

14 Q Remember that? Okay. And this was in connection with
15 Ms. Arroyo hitting some racks out on the floor when she was
16 operating a forklift, right?

17 A That's correct.

18 Q Now this happened -- these incident happened, if you look
19 at the back page of this, back in, it looks like, October of
20 2007, correct?

21 A Right.

22 Q What does it say down here in terms of where these concerns
23 actually came from. If you look at the very bottom paragraph,
24 right --

25 A It says we have numerous concerns from her peers about her

Schroeder - Cross by Mr. McMahon

1 driving and complaints of her often hitting racks.

2 Q So these are fellow material handlers out on the floor?

3 A Her co-workers.

4 Q Okay. And that's how this issue was brought to your guys'
5 attention?

6 A Correct.

7 Q All right. Now this is back in 2007. And we heard
8 testimony that Ms. Arroyo was retrained and also received a
9 corrective action plan with that?

10 A Right.

11 Q Did that corrective action plan have any bearing on why
12 Ms. Arroyo was terminated in November 2011?

13 A Absolutely not.

14 Q So it was a completely different type of discipline?

15 A Of course, yes.

16 Q And it had no bearing on her getting a further step in
17 discipline separately under the attendance policy?

18 A No relationship.

19 Q Okay. You testified a little bit before -- you testified a
20 little bit yesterday regarding a patriotic employer award that
21 you received from Colonel Gorski. Can you remind the jury who
22 Colonel Gorski is and where he worked?

23 A Colonel Gorski was in the ESGR, Employer Support of the
24 Guard and Reserve. I guess he's like our region
25 representative.

Schroeder - Cross by Mr. McMahon

1 Q Mm-hmm.

2 A I came to know him through Ms. Arroyo.

3 Q Mm-hmm.

4 A He came to assist us to help educate us about some things.
5 And we had some questions and the things that we were uncertain
6 of, and he was of great assistance to us. He helped us clear
7 up a lot of concerns that we couldn't resolve ourselves or
8 answer.

9 Q Okay. So just to be clear, the ESGR you mentioned Colonel
10 Gorski was a regional representative from there. Does the ESGR
11 help employers and employees discuss employee military
12 rights --

13 A Yes.

14 Q And employer obligations?

15 A Yes.

16 Q So you not only met Colonel Gorski in connection with this
17 award you received, but you also worked with him in connection
18 with Ms. Arroyo, right?

19 A Yes.

20 Q Okay. All right. Do you know offhand, was Mr. Temko and
21 Patrick Dunn separately nominated for an award through
22 Ms. Arroyo?

23 A Yes, they were, prior to the one that was given to me.

24 Q You mentioned in your testimony that there were some other
25 individuals in attendance when you were nominated by Ms. Arroyo

Schroeder - Cross by Mr. McMahon

1 for the patriotic employer award.

2 A Yes.

3 Q Could we put a picture of that up, please?

4 THE COURT: And what's the exhibit number on this? Is
5 this 28 or 6?

6 MR. DeROSE: The exhibit number here is 8,
7 Defendant's 8.

8 THE COURT: Yeah, this was used yesterday.

9 MR. McMAHON: The front page was used yesterday, yes.

10 BY MR. McMAHON:

11 Q And then if you could flip to the last one.

12 Okay. Do you see that picture, Mr. Schroeder?

13 A Yes, I do.

14 Q Could you identify the individuals in this picture? I know
15 a few of them have already been identified. But just identify
16 them for the jury, please.

17 A All right. Going right to left it's Luzmaria Arroyo,
18 Colonel Gorski, myself.

19 Q Yes.

20 A To the left of the Mack bulldog is Marty Schwartz, who's a
21 veteran. Mike Temko, we all know him, and Jim Ran who is also a
22 veteran. We invited them up to this event. It was quite nice.

23 Q Okay. Nice. And on this, I take it, going back to my
24 question from before and I kind of mixed this out of order.
25 It's my fault.

Schroeder - Cross by Mr. McMahon

1 After Ms. Arroyo's first deployment -- and I think you
2 testified that this happened in the fall of 2010?

3 A Right.

4 Q After Ms. Arroyo's first deployment, did she also nominate
5 Mike Temko and Patrick Dunn similarly for an award?

6 A Yes, she did.

7 Q Could we put the certificates up there? I believe that's 9
8 and 7.

9 Okay. This is Defendant's Exhibit 7. And
10 Mr. Schroeder, do you recognize this as a certificate that
11 Michael Temko and Patrick Dunn at the time of Mack Trucks, Inc.
12 received?

13 A Yes. Their name is on there.

14 Q Okay. And they received this as being a patriotic
15 employer, right?

16 A Yes.

17 Q For supporting Ms. Arroyo?

18 A Yes.

19 Q Could I show you the next page, please? Is this the award
20 that you received from Colonel Gorski in the fall of 2010?

21 A Yes, it is.

22 Q Were you proud to receive these?

23 A Of course. It was awesome.

24 Q Why is that?

25 A I mean, as a company, I mean, you know -- and I represent

Schroeder - Cross by Mr. McMahon

1 the company, it's not just me, but it's everybody in my
2 facility. The ESGR came to us to essentially thank us for our
3 support for Ms. Arroyo. It was awesome.

4 Q Now, I want to show you Plaintiff's Exhibit 50. Can you
5 get that in front of you?

6 A I may have got some of these mixed up yesterday. Is this
7 two pages?

8 Q I believe it is. It should be Bates No. -- if you look at
9 the very bottom corner. Can you look at Exhibit 50. It should
10 be 1813 and 1814.

11 Do you see that?

12 A Yes.

13 Q Now, if you go back to the front page. We looked at this
14 email with Mr. Temko as well, right? Do you remember when we
15 did that, Mr. Schroeder?

16 A Yes.

17 Q And Mr. Temko testified about this?

18 A Yes.

19 Q Now, yesterday, Mr. DeRose asked you some pretty misleading
20 questions about this.

21 MR. DeROSE: Objection, your Honor.

22 THE COURT: Sustained. Save the characterizations for
23 your closing arguments.

24 MR. McMAHON: I understand, your Honor.

25

Schroeder - Cross by Mr. McMahon

1 BY MR. McMAHON:

2 Q Breaking it down, were you in the courtroom when Mr. Temko
3 explained that all of these days were excused as military
4 leave?

5 A Yes, I was.

6 Q And he stuck through that, right?

7 A Yes.

8 Q In fact, in this particular situation, if you refer to your
9 top email.

10 Do you see that up there?

11 A Yes.

12 Q It's your email that you sent on November 19th?

13 A Correct.

14 Q Isn't it true that you actually received Mrs. Arroyo's
15 orders on the 19th?

16 A Yes, I believe so.

17 Q And those orders covered the period of November 12th
18 through November 26th?

19 A Correct. Issued on the 14th.

20 Q And they were issued on the 14th. And by issued on the
21 14th, meaning that's when the orders apparently were cut by the
22 U.S. Army?

23 A I have to believe that.

24 Q But just because they're cut doesn't mean you have
25 knowledge of them right way?

Schroeder - Cross by Mr. McMahon

1 A That's correct.

2 Q All right. I would like to show you what I am going to
3 hand you as Defendant's Exhibit 43. And provided a copy to
4 Counsel yesterday.

5 Okay. I'm going to approach here if I can, sir.

6 THE COURT: Sure.

7 MR. McMAHON: Thank you. Here's a paper copy for your
8 reference.

9 THE COURT: Now, are you moving this into evidence?

10 MR. McMAHON: Yes, your Honor.

11 THE COURT: Okay. Very well. So we will receive into
12 evidence Defendant's Exhibit 43.

13 (Defendant's Exhibit 43 is received in evidence.)

14 THE COURT: Do you want to publish it?

15 MR. McMAHON: Yes.

16 THE COURT: It's in front of everybody.

17 BY MR. McMAHON:

18 Q Mr. Schroeder, can you step us through this faxed cover
19 sheet here in connection with Exhibit 43.

20 A Yes. This is a fax to Mack Trucks from the 416th Illinois
21 TDC. It was sent on 11-19-2008, and it was regarding Sergeant
22 Arroyo.

23 Q And this is regarding the same orders that you were looking
24 at in Exhibit 50, right?

25 A Correct.

Schroeder - Cross by Mr. McMahon

1 Q And, in fact, the date of this fax is November 19th, 2008,
2 right?

3 A Correct.

4 Q And that's the same day of your email?

5 A Yes.

6 Q Can you please read the fax to the jury? What does it
7 actually say?

8 A It says, "To whom it may concern: Sergeant Arroyo will be
9 on orders from November 12th through November 26th. Orders
10 were not published until November 14th. Please excuse the
11 tardiness of the notification and Sergeant Arroyo's absence
12 from work." And it's signed by -- it looks like Becky Isler.

13 Q Now, the question is, were these days actually excused?

14 A Yes.

15 Q Did you excuse the tardiness of the notification of these
16 orders?

17 A I'm sorry. I didn't hear that, sir.

18 Q It says here, "Excuse the tardiness of the notification."

19 A Yes, it does.

20 Q Did you excuse that?

21 A Yes.

22 Q And if we wanted to take a look at Defendant's Exhibit 6,
23 just to connect the dot?

24 A Exhibit number?

25 Q Yeah. Defense Exhibit No. 6. That will be the binder,

Schroeder - Cross by Mr. McMahon

1 Mr. Schroeder. It's okay. We're switching back and forth a
2 little bit here.

3 But if you take a look at 2008, and this is Exhibit 6
4 on the tab.

5 A Would that be in front of the tab or behind it?

6 Q Take a look. It should be behind it. It should be the
7 chart of the military records that you were shown yesterday.

8 A Okay.

9 Q Do you see that?

10 A Yes, I do.

11 Q Now, if you look at the entry for 2008, you see an entry
12 there for 11/12/2008 to 11/26/2008?

13 A Yes, I do.

14 Q And all of those days were granted as military leave days,
15 weren't they?

16 A Correct. It says 11 days.

17 Q Thank you.

18 Now, if we can, I want to clarify a little bit about
19 the timeframe of Ms. Arroyo's second deployment. Okay?

20 If you take a look at Exhibit 57 that you were
21 provided yesterday.

22 A The other ones?

23 Q That would be Plaintiff's Exhibit 57. Yes. Sorry about
24 that.

25 Okay. And specifically now I'm talking about the

Schroeder - Cross by Mr. McMahon

1 deployment that went from -- it started with 2009.

2 Do you see that?

3 A Yes. At the top it's dated April 6th or 8th of 2009.

4 Q Right.

5 Now, Mr. DeRose yesterday showed you Exhibit 59
6 regarding an extension order, right?

7 A Yes.

8 Q Can you take a look at that please, and let's put that up
9 on the screen.

10 A Is that behind this or --

11 Q It's a separate exhibit. It's 59.

12 A 59?

13 Q Yes. 59.

14 A I don't have that. I don't seem to have that. The numbers
15 are going higher.

16 Q Can you see it on the screen at all?

17 A Can you make it bigger?

18 THE COURT: Might the stipulation help here on the
19 dates?

20 MR. McMAHON: There's a particular point, though, that
21 we need clarification on.

22 THE COURT: That's fine. I am just trying to --

23 MR. McMAHON: I'm not beating a dead horse on the date
24 of the employment. I'm trying to get something else here.

25

Schroeder - Cross by Mr. McMahon

1 BY MR. McMAHON:

2 Q How is that, Mr. Schroeder?

3 A It's better, of course.

4 Q It's better. Okay.

5 Okay. First of all, can you scroll to the top of the
6 date of this? Okay. This was a memorandum that looks like it
7 had been issued on April 15th of 2010, right?

8 A Correct.

9 Q Do you know, is that approximately the time that Ms. Arroyo
10 actually returned to the United States from Iraq?

11 A Yes, I believe that's true.

12 Q Okay. So it's your understanding in connection with the
13 second deployment that she was not in Iraq the entirety of the
14 time, right?

15 A Right.

16 Q So there was a period of time where she was in Iraq, she
17 came back to the United States?

18 A Correct.

19 Q Now, in or around April of 2010 we see this memorandum,
20 right? It's the document you're looking at right now?

21 A Yes.

22 Q Exhibit 59.

23 Take a look at the first paragraph if I can direct
24 your attention there. Where it starts with, "Your request."

25 Do you see that?

Schroeder - Cross by Mr. McMahon

1 A I see that.

2 Q It says here, "Your request for extension on active duty
3 for the purpose of extending accrued leave, PBMRA, and out
4 processing for the soldiers listed below is proven. The new
5 release date will be no later than September 2, 2010."

6 Do you see that?

7 A Yes.

8 Q So did it appear from this document that Ms. Arroyo was
9 taking some sort of accrued military leave after she came back
10 from Iraq, but before she came back to Volvo?

11 A Correct.

12 Q So when Mr. DeRose was questioning you yesterday about the
13 fact that we're giving Ms. Arroyo these attendance occurrences,
14 a month after she got back from Iraq, that's not accurate, is
15 it?

16 A That's not accurate.

17 Q In fact, Ms. Arroyo had been back in the United States for,
18 what, five months?

19 A Correct.

20 Q And ultimately, of course, we know that she came back to
21 work in September of 2010, right?

22 A I believe so, yes.

23 Q When Ms. Arroyo came back to work, she still knew what
24 shift she worked on, right?

25 A Yes.

Schroeder - Cross by Mr. McMahon

1 Q And I think you were questioned yesterday about the fact
2 that taking along the first full month she's back, October of
3 2010, most days during that month she punched in timely,
4 correct?

5 A Correct.

6 Q Could you put up Plaintiff's Exhibit 90, please?

7 And if we could take a look at the last page of this
8 document, please?

9 A Page four?

10 Q Yes.

11 A And it's Bates No. 225 in the bottom corner there?

12 Q 225.

13 A Yes.

14 Q 225 in the bottom right corner there. Do you have that in
15 front of you now?

16 A Yes.

17 Q Okay. Now you started to talk a little bit about this
18 yesterday, but I wanted to make sure the jury kind of
19 understands this.

20 You see there is an entry about the rollback period
21 and it hadn't changed. Why did it change? Can you explain
22 that please?

23 A You mean the revision in 2009?

24 Q Can you explain to the jury why it changed? Not just what
25 it is, but why it changed?

Schroeder - Cross by Mr. McMahon

1 A This is -- we wanted to just measure time worked and so --
2 but, of course, you do know that all employees are entitled to,
3 as an example I give, like, 39 vacation days a year, plus
4 holidays, seven holidays.

5 Q Wait a minute. You have got 39 vacation days a year?

6 A Yes. Most of our senior employees get that many.

7 Q Okay. Sorry to interrupt.

8 A So it is anything other than vacations, ET0 is earned time
9 off. And it was changed sometime to be a combination of
10 vacation days were increased to give you, like, personal days,
11 and scheduled holidays.

12 Q Okay. So this only period here in terms of kind of the
13 elimination of the other periods that aren't counted as part of
14 the six-month look back --

15 A Correct.

16 Q -- you mentioned examples of FMLA leave, short-term
17 disability.

18 A Yes.

19 Q Military leave as well?

20 A Yes.

21 Q Is that because those are periods of time where the
22 employee is -- you know they're not there anyways?

23 A Correct. They're not there. They're not at work.

24 Q So accordingly, it is not representative to measure
25 attendance one way or another because you know they're not

Schroeder - Cross by Mr. McMahon

1 going to be showing up.

2 A That's correct.

3 Q Now, Mr. DeRose questioned both you and Mr. Temko about
4 this change. And do you remember he kept saying that it was
5 changed while Ms. Arroyo was deployed?

6 A Yes.

7 Q That's not accurate, is it?

8 A No.

9 Q When was it changed?

10 A January of 2009.

11 Q Was Ms. Arroyo present for that change?

12 A Yes, she was.

13 Q I would like to put up the sign-in sheet, if we can.

14 Again, I'm showing you -- Mr. Schroeder, if you can take a look
15 in the binder now, Defendant's Exhibit 12.

16 A Yes, this is a document -- whoops, let me get this first.

17 Q Do you have that in front of you? The document in front of
18 you?

19 A Yes. Sorry.

20 Q Can you explain what this document is?

21 A I sure can.

22 Q Thank you.

23 A When we have communications for all employees at the
24 facility at Joliet, we always have what's called a
25 communication sign-up sheet. And this is just a verification

Schroeder - Cross by Mr. McMahon

1 that employees were there for the communication. This one was
2 January 8th of 2009, and it was titled Employee Info Session.
3 And it lists everybody that was there. And those that weren't
4 there there's follow-up meetings to make sure that was
5 communicated to them, too.

6 Q Okay. And was Ms. Arroyo in attendance at this meeting?

7 A Yes, she was. Her signature's on this document.

8 Q All right. And that's on Line 6 of that document on the
9 front page?

10 A Right.

11 Q Now, at these meetings, how do you kind of present the
12 material to the employees? Does that make sense?

13 A We have a very large conference room that's about half the
14 size of this room.

15 Q Right.

16 A And it's put up on a projector on the wall.

17 Q Okay. What's put on a projector on the wall?

18 A All of the things that we're going to communicate to them.
19 The attendance policy would have been one of those.

20 Q Okay. Can we take a look at the exhibit. And is this a
21 copy of the Power Point that would have been presented in
22 connection with the 2009 updates?

23 A That's correct.

24 Q And this, by the way, is in your binder, sir. It's Exhibit
25 13, if you want to take a look at that.

Schroeder - Cross by Mr. McMahon

1 And specifically, if I can direct your attention to --
2 and it's several pages in -- I'm going to take a look. Scroll
3 through it here. Right there. It would be Bates No. 2280.
4 And wait until you have that in front of you, okay?

5 A Of course. Okay. I have that.

6 Q And on the slide it's Bates labeled 2280.

7 Now, what's the title to that?

8 A Updated HR Policies.

9 Q And then what is the bullet there under Chicago Attendance
10 Policy Update?

11 A Then "ET0/vacation weeks and scheduled holidays will not
12 count towards the rolling time period."

13 Q And that's exactly the modification that was made to the
14 attendance policy we just looked at in Exhibit 90, correct?

15 A Yes.

16 Q Could we take a look, please, at Plaintiff's Exhibit 95.

17 A Three pages?

18 Q I believe that's right. I'm just going to direct your
19 attention to the front page. And specifically the email from
20 Bruce Olin to you, on November 8th, 2010.

21 A Okay.

22 Q Do you see that?

23 A I see it in the middle, yes.

24 Q Mr. Schroeder, were you present when plaintiff gave their
25 opening statement in this case?

Schroeder - Cross by Mr. McMahon

1 A Yes.

2 Q You were in the courtroom, right?

3 A Yes.

4 Q Do you remember them blowing this exhibit up for the jury
5 during opening statement?

6 A I believe so.

7 Q Do you remember being questioned about this yesterday?

8 A Yes.

9 Q I want to talk to you about this. You're talking about
10 here when Ms. Arroyo was tardy one minute in October of 2010,
11 right?

12 A Correct.

13 Q Was that tardy -- was she ever actually given an occurrence
14 for being tardy that minute?

15 A No.

16 Q So this email up here where Bruce Olin is giving you advice
17 not to give her an occurrence for that or a tardy for that?
18 You never gave her an occurrence for it?

19 A I never did.

20 Q And, in fact, if we can look at Defendant's Exhibit 15?

21 A Where was that?

22 Q Defendant's Exhibit 15 in the binder. And just to make it
23 easier, you don't have to take the pages out of the binder if
24 you don't need to.

25 A It's our attendance records.

Schroeder - Cross by Mr. McMahon

1 Q Yes. If you could take a look at it. I think it's Page 3
2 of that document?

3 A Pardon.

4 Q Page 3 of that document.

5 A Yes.

6 Q Do you see the entry there for 2010?

7 A I see that.

8 Q All right. And do you see the entry there for October 29th
9 of 2010?

10 A Yes.

11 Q And you were questioned about this yesterday, I believe.
12 But what does it say there in the far right-hand column?

13 A That she was late one minute. And at the far right in the
14 comment section it says, "No occurrence, KS," which is me.

15 Q So you're the one who made the decision to excuse that?

16 A I made an exception to excuse that, yes.

17 Q Why did you do that?

18 A It was the right thing to do.

19 Q Why was it the right thing to do.

20 A I mean, it was a period -- I believe she had been away for
21 a while.

22 Q Right.

23 A And she requested this, and I didn't do it yet. I didn't
24 yet, at that time, have a meeting with her to kind of refresh
25 on policies and things. And we did that, I believe, shortly

Schroeder - Cross by Mr. McMahon

1 thereafter. But it was just the right thing to do.

2 Q Okay. And did she explain to you when you first were
3 talking with her about this one-minute late that she forgot
4 that grace periods had been eliminated?

5 A I believe so, yes.

6 Q But you decided to give her the benefit of the doubt anyway
7 and excuse this minute?

8 A Correct. Correct.

9 Q I'd like to take a look at Plaintiff's Exhibit 107. Wait
10 for a second, Mr. Schroeder. If you can get that in front of
11 you.

12 Okay. Is there a second page to this or just a front
13 page? Just a front page, okay.

14 And Mr. Schroeder --

15 A Is it two pages or one? Maybe I have the same thing on two
16 copies of it.

17 Q Okay. If you can direct your attention to the page that is
18 Bates labeled 1743.

19 Do you see that?

20 A Okay. This is it.

21 Q Okay. Now both you and Ms. Jankowski had been asked
22 questions about the top email.

23 Do you see that?

24 A Yes, I do.

25 Q I want to talk about what's in the bottom email if we can.

Schroeder - Cross by Mr. McMahon

1 A Okay.

2 Q Okay. You send an email to Ms. Jankowski on December 2nd.

3 Do you see that?

4 A Right.

5 Q What are you talking about here when you're mentioning
6 change to Friday work agreement and weekend drills? Can you
7 explain that to the jury, please?

8 A I'm stating to her, "This communication is replying to the
9 request made by Luzmaria Arroyo. Request to change our Friday
10 work agreement, which she scheduled for weekend drills."

11 Q Mm-huh.

12 A "Our current agreement that LuzMaria agreed to is 12:30 to
13 8:30. She says she needs to end work at 7:00 p.m. on Friday.
14 After further review the company will alter the following work
15 schedule to support her local weekend drill schedule.
16 Depending on the weekend drill schedule start time, we will
17 allow 11 hours prior to the start time plus one hour travel
18 home.

19 Q Okay. So is it fair to say that throughout 2010, and even
20 a little bit of 2011, you were allowing Ms. Arroyo to modify
21 her work hours on Friday in order to get to these weekend
22 drills?

23 A Yes.

24 Q And, in fact, was that one of the issues that you worked
25 with Colonel Gorski on in resolving this for Ms. Arroyo?

Schroeder - Cross by Mr. McMahon

1 A Yes.

2 Q And when Colonel Gorski had worked with you on those
3 issues, did he provide you some sort of documents that kind of
4 memorialized Volvo's understanding and Ms. Arroyo's
5 understanding of how that would be treated?

6 A Yes, he did.

7 Q Could you put that up, please? It's Defendant's Exhibit 10
8 in the notebook.

9 First, I will just let you get that in front of you
10 here for a second.

11 A I have that.

12 Q Okay. Can you identify the front page for me?

13 A This email was from Colonel Gorski, Army, and it says he is
14 retired.

15 Q Okay.

16 A Final closing document. I don't know why the unclassified
17 is there. That must be some language he used. It was dated
18 April 4th of 2011, and it was addressed to me as the final,
19 which incorporates the additional facts and position that he
20 provided to me earlier. "Please review and provide concurrence
21 or recommendations. I will provide a copy to Luz once I have
22 heard from you."

23 BY MR. McMAHON:

24 Q Can we look at the second page of this, please?

25 A Yes.

Schroeder - Cross by Mr. McMahon

1 Q All right. So I take it here it looks like here there is a
2 list of four issues that were addressed.

3 A That's correct.

4 Q With Ms. Arroyo --

5 A That's correct.

6 Q -- after her last deployment, right?

7 A Correct.

8 Q Issue one says, "Time off prior to drill to provide an
9 adequate amount of arrest."

10 A That's correct.

11 Q And it looks like there is a discussion under issue one.
12 Do you see that?

13 A Yes.

14 Q Under conclusion, what was ultimately done to modify
15 Ms. Arroyo's Friday work hours? Can you kind of explain that
16 to the jury?

17 A If you look on there it says that, "Employee should be
18 afforded enough time off from the employer prior to start of
19 military duty in order to travel to the duty station and arrive
20 fit to perform military service."

21 Q Right.

22 A And then there's some guidance there, "Will adjust"-- I
23 don't know what "SM" means.

24 Q Presumably that's referring to Ms. Arroyo?

25 A Yes.

Schroeder - Cross by Mr. McMahon

1 "For Friday shift, prior to working scheduled battle
2 assemblies that commence at 5:00 a.m. be from 4:30 p.m.to 7:00
3 p.m. She will be charged with 2.5 hours of work and 5.5 hours
4 of excused military leave."

5 Q All right. So in other words, her normal shift, it ran
6 from 4:30 to 12:30?

7 A Right.

8 Q But those weekends when she drilled afterwards, she was
9 going to work for two and a half hours. And the remainder of
10 that would be excused military duty?

11 A Yes.

12 Q And that's part of agreement you reached with Colonel
13 Gorski specifically?

14 A Of course.

15 Q If I could, could you take a look at Plaintiff's Exhibit
16 123?

17 A Single page?

18 Q I believe so. Give me just one second here.

19 And we looked at this email exchange yesterday, right?

20 A Yes, we did.

21 Q And you were questioned about Ms. Arroyo's email to you o
22 Christmas Eve?

23 A Right.

24 Q And then your forward of that email to Bruce Olin?

25 A Correct.

Schroeder - Cross by Mr. McMahon

1 Q Were you trying to come up with a reason to terminate Ms.
2 Arroyo prior to this communication?

3 A Well, of course not. I always tried to get clarification
4 and support for some way of circumstances for how we could
5 cover this time so that she could be compensated for it.

6 Q Okay. And I think you mentioned yesterday there were
7 numerous policies kind of irrespective of this, right?

8 A There is, yes.

9 Q Can you explain that to the jury?

10 A I mean, Volvo has a salary continuation policy. I can give
11 an example. I was out a couple years ago. I got full pay. I
12 got four to six weeks. So Volvo has a salary continuation
13 policy. Of course, it can be a short-term disability or a
14 long-term disability. There's a number of things that can
15 happen here.

16 Q Right.

17 A Of course, in addition to your PT and earned time off days.

18 Q Okay.

19 A I mean, I wanted to know which would comply. It was a
20 little bit complex.

21 Q Right.

22 A I mean, I just wanted to make sure that I had the right
23 information and the right things in front of me. You know, I
24 didn't know if there was anything on the part of our military
25 policy, or anything with the federal regulation.

Schroeder - Cross by Mr. McMahon

1 Q Right.

2 A I was looking for clarification and information so that we
3 could make a good decision.

4 Q Okay. So let's take a look at Exhibit 15 in terms of what
5 actually happened with those days. Okay?

6 A It's in the binder?

7 Q Yes. It's Defendant's Exhibit 15.

8 A Okay.

9 Q All right. And specifically, if I could direct your
10 attention to, I believe it's again the third page, for 2010
11 entries.

12 Do you see that?

13 A 2783?

14 Q 2783, yes.

15 A I have that.

16 Take a look at the entry there December 23rd.

17 Do you see that?

18 A I see that, yes.

19 Q What is A & S?

20 A At that time it wasn't called short-term disability. It
21 was called accident and sickness.

22 Q Okay.

23 A The terminology changed at some point.

24 Q So Ms. Arroyo was given accident and sickness leave there?

25 A Yes.

Schroeder - Cross by Mr. McMahon

1 Q Starting on the 23rd?

2 A Yes.

3 Q Which is the day before she sent you this email on
4 Christmas Eve?

5 A Right.

6 Q How long did that end up going for?

7 A Well, in 2010, that went through the end of the year.

8 Q Yes, sir. And let's take a look at 2011, if you can.
9 That's on the first page, I believe, of the document?

10 A In 2011?

11 Q Yes.

12 A That continued from January 10th through March 22nd.

13 Q Okay. And Ms. Arroyo was on leave that entire period,
14 right?

15 A Yes.

16 Q And at the end of the period, what happened?

17 A Well, on April 1st she was on military leave.

18 Q Okay. Did she come back to work after this?

19 A Yes, she did. She returned to work.

20 Q Okay. If I could take a look at -- if you could take a
21 look at, sir, Plaintiff's Exhibit 142.

22 Do you have that in front of you?

23 A Two pages?

24 Q I believe so, yes.

25 Okay. Now, Mr. DeRose quizzed you a little bit

Schroeder - Cross by Mr. McMahon

1 yesterday about independent medical examinations.

2 Do you remember that?

3 A I do.

4 Q Okay. I take it you've ordered independent medical
5 examinations for your employees in the past, right?

6 A I have in the past; not often.

7 Q Do you know if the Americans with Disabilities Act allows
8 you to ask for or even order a medical examination for one of
9 your employees, if you have a business reason to do so?

10 A I would have to believe that answer is yes.

11 Q And in this particular case, what were the concerns
12 regarding Ms. Arroyo about what why she was asked to present
13 for an IME?

14 A The reason that it came to our attention was when you work
15 in a warehouse, I mean, as a general rule, throughout your day
16 of work, you're just going about your business. However, if
17 there's any time during the day where something unusual
18 happens, other than what normally happens in the course of
19 business, there's what we call an indirect report that we fill
20 out for those. And on that day, Ms. Arroyo had put on there
21 something -- I won't use the exact words -- but she put on
22 something to the effect of "zoned out," which, of course, was a
23 red flag to us. We need to find out what this is. So we had
24 to have a follow-up meeting with her to determine what "zoned
25 out" meant.

Schroeder - Cross by Mr. McMahon

1 Q And I take it, then, you had her present to Dr. Koehler for
2 an examination?

3 A Yes.

4 Q Now was the purpose for the medical visit to Dr. Koehler to
5 confirm that she had PTSD?

6 A No.

7 Q You guys already knew that at that time, right.

8 A Yes. Yep.

9 Q And you weren't second guessing the medical evaluation, the
10 diagnoses of her doctor, were you?

11 A No.

12 Q So the purpose of this exam was just to see if she could
13 still perform her job, right?

14 A That's correct. It would be a major safety concern if a
15 person tells you they're zoned out for her safety while
16 operating material handling equipment, and of her co-workers.

17 Q And, along those lines, do you see on the front page of
18 this document?

19 MR. DeROSE: Judge, I thought we weren't going to go
20 into this whole document. We were just to look at the
21 diagnosis. I am a little concerned about some of the other
22 things mentioned in the document that I was told that I was not
23 to go into for my purposes.

24 THE COURT: Well, my hope is that we're not going to
25 talk about diagnoses or anything of PTSD. I don't know what

Schroeder - Cross by Mr. McMahon

1 the next question is going to be.

2 MR. DeROSE: Well, it's been published before the jury
3 and it continues up there.

4 THE COURT: Well, we can take it down from the screen.
5 It was published yesterday for probably about the same amount
6 of time. And that's what caught my attention was this document
7 was in front of the jury, I believe --

8 MR. DeROSE: And then it was --

9 THE COURT: Well, at the time, just so I can make this
10 clear for you all again. I think right at this very moment
11 yesterday when the document was up, that's when I gave you the
12 explanation of I think we all ought to be grateful that you're
13 not getting a day's worth of testimony on PTSD and the inside
14 and outside of it. And maybe it would be something good for us
15 to learn, but not during the course of this trial, because the
16 parties have stipulated that Ms. Arroyo has been diagnosed with
17 PTSD, and then they gave you maybe five more sentences about
18 what that means for this trial.

19 So I'm going to urge you not to pay any attention to
20 the PTSD parts of this document because all you need to know
21 about PTSD is contained in that stipulation.

22 Good enough? Is that satisfactory for both counsel?

23 MR. DeROSE: And with that, Judge, maybe we should
24 take it down because so many things in there I wouldn't want to
25 add there.

Schroeder - Cross by Mr. McMahon

1 THE COURT: Agreed. And the questions we'll
2 understand are in reference to this circumstance of the IME.
3 Right?

4 MR. McMAHON: Well, they're in reference to the IME,
5 but they're also in reference to --

6 MR. DeROSE: Could we take the statement down?

7 Q -- in terms of what actually happened in regards to how we
8 treated Ms. Arroyo afterward, and Mr. DeRose did question about
9 that.

10 THE COURT: And that's fine. But we don't need the
11 document on the screen. It is gone.

12 MR. DeROSE: It is not gone from you. I see I have
13 got it, but you don't.

14 THE COURT: It's gone from the jury. As far as I can
15 tell what's in front of the jury is Exhibit 123, which is the
16 previous one. So you can continue anything you want to ask.

17 MR. McMAHON: Correct. I'll move along. I will move
18 along.

19 THE COURT: Okay. Perfect.

20 MR. McMAHON: Thank you.

21 THE CLERK: I have one question. I have auto-publish
22 off, but the jury gallery is still on in front of the jury. Do
23 you want to leave that off.

24 THE COURT: You're good.

25 THE CLERK: Thank you.

Schroeder - Cross by Mr. McMahon

1 BY MR. McMAHON:

2 Q Mr. Schroeder, you testified a little bit yesterday that
3 after this IME you began treating Ms. Arroyo a little
4 differently for awhile. What happened as a result of this IME,
5 where she was treated differently?

6 A She, based on the physician's recommendation, she was
7 placed on what we called restricted duty. She could not drive
8 material handling equipment.

9 Q Okay.

10 A We did have work available. She was working in the packing
11 area, which doesn't require the use of material handling
12 equipment, packing orders at a work station.

13 Q Okay. And did there come a time where those restricted
14 duties were lifted?

15 A Yes. She went back -- she returned to working regular
16 work.

17 Q Do you know approximately when that was?

18 A I don't recall what the date of this is. It was probably a
19 short period. I don't know how long.

20 Q Now, I want -- we had a whole lot of talk yesterday about
21 parking in the back of the building. Okay? And I want to kind
22 of clarify some of the timeline to this discussion, if we can.

23 Do you remember speaking with Ms. Arroyo about her
24 parking in the back of the building to access the meditation
25 room?

Schroeder - Cross by Mr. McMahon

1 A Yes.

2 Q All right. And first of all, to kind of back up. Before
3 we even dive into that. We have heard of this meditation room
4 as kind of being discussed and thrown out there.

5 What was the meditation room? Was this a room that
6 everyone accessed to meditate?

7 A No. This was an accommodation to Ms. Arroyo, at her
8 request, that she have a private place where she could spend
9 approximately 15 minutes a day, just to get herself prepared
10 for the work day.

11 Q Okay. So this was something Volvo gave her?

12 A Yes, it was. And the only suitable place for that where we
13 had a place with a closed door, a hard office, so to speak.

14 Q Okay.

15 A Because that's what was required, that would be available
16 for sure every day, was in the back of the building, inside of
17 the operations office. There was a supervisor's office with a
18 closed door.

19 Q Okay. Now, I think yesterday Mr. DeRose started to show
20 you a memo that you had given to her. But I don't think it
21 ever got published to the jury?

22 A Correct.

23 Q So I would like to publish that now, since that's in
24 evidence already, and ask you some questions about it. If I
25 can remember first, this is November 1st, 2010.

Schroeder - Cross by Mr. McMahon

1 MS. WILSON: What's the number?

2 BY MR. McMAHON:

3 Q It's in the notebook.

4 A Number?

5 Q Exhibit 27.

6 A I have it.

7 Q Okay. All right. Can you kind of walk through with the
8 jury the purpose of this memo and what you're outlining here
9 for Ms. Arroyo?

10 A I met with Ms. Arroyo on November 1st, with her supervisor
11 Patrick Dunn. And this is just regarding meeting notes. We
12 discussed a couple of topics. First, was the start time for
13 shift start. When the bell rings, and that would be at 4:30
14 p.m., you should be prepared to begin work. A) walking to your
15 work station or to obtain a lift truck." We call it a vehicle,
16 but it's a lift truck. "Or attend the shift meeting and
17 wearing your PPE, personal protection equipment, safety
18 equipment, and tools, before the shift starts at 4:30. Those
19 are the things that every employee needs to be doing.

20 "Arrival time following counseling sessions, agreed to
21 arrive at work following appointments at 6:30 p.m."

22 Q And were those on those Tuesdays that we talked about
23 yesterday?

24 A That's correct. Her weekly counseling sessions, every
25 Tuesday.

Schroeder - Cross by Mr. McMahon

1 Q All right.

2 A Later arrival time requires a call-in or a
3 doctor's/counselor's document.

4 Q Before we move on, and I know this is a side note, I think
5 we had testimony yesterday that there were times when she did
6 arrive to work after 6:30 on those Tuesdays, right?

7 A That is correct.

8 Q Was she ever given any attendance occurrences for those
9 days when she arrived late to work after 6:30?

10 A Never. All excused.

11 Q And you go on to talk about it here, you refer to it as the
12 mediation room. Is that a typo?

13 A Yes.

14 Q It's actually the meditation room.

15 A Yes.

16 Q What do you outline there?

17 A This is just a note and reminder that the meditation room,
18 the available room is the supervisor's office, that's in the
19 warehouse in the operations office. If not in that office --
20 if it's not available, because there are supervisors and other
21 people in there right adjacent to it, there's a first aid room
22 with a closed door. She's welcome to use that. There's a
23 place to sit in there. That could also be an alternative in
24 the event that room is not available.

25 Q All right.

Schroeder - Cross by Mr. McMahon

1 A "Use of the room for meditation does not negate your need
2 to be prepared to start work when the bell rings."

3 Q What did you mean by that?

4 A I mean, we granted her -- the original agreement I believe
5 was she could have a quiet place to herself for 15 minutes
6 prior to the start of her shift.

7 Q Yes.

8 A However, her shift starts at 4:30 p.m.

9 Q Yes.

10 A And like every other employee on that shift, ready when the
11 shift starts. You're getting paid, I mean, ready to go to
12 work.

13 Q When that bell rings.

14 A And move to your work station, your work assignment.

15 Q When that bell rings you're paying your employees.

16 A Yes, I am.

17 Q Now, if you can take a look a little bit at the second page
18 of this document. If I could draw your attention to that.

19 A Yes.

20 Q Up in C there, "Access to the room."

21 A Yes. We also noted, "Access to the operations office," the
22 meditation room that was assigned to her, "must be through the
23 warehouse and parking in the employee parking lot in the front
24 of the building. Parking in the rear of the building is not
25 available because of safety concerns."

Schroeder - Cross by Mr. McMahon

1 Q So just to kind of be clear, we heard some testimony about
2 this yesterday. Around this time period, Ms. Arroyo was
3 parking in the back of the building to access the meditation
4 room that had been provided to her?

5 A Right.

6 Q When the bell rang -- when she was doing this, when the
7 bell rang, what was she doing?

8 A She left the building to get into her car.

9 Q And then what did she do?

10 A To drive around the building.

11 Q So she got into the car after the bell rang to drive back
12 around the building?

13 A Drive back around the building. She had to drive around
14 the side of the building up to the front parking lot, get out
15 of her car and then come in the everyday employee entrance to
16 go to her locker room and, you know, then go to her work
17 assignment area.

18 Q And I think we looked at an email, I believe it was
19 yesterday, from Sherrie Jankowski, that Ms. Arroyo had kind of
20 done this routine, right?

21 A Right.

22 Q Where she nearly hit another employee while she was doing
23 it?

24 A Right. She made me aware of that.

25 Q And that was back in October.

Schroeder - Cross by Mr. McMahon

1 A Right.

2 Q And she was late to work that day, right, by doing this?

3 A Right.

4 Q She was not starting her shift on time?

5 A No, she was not.

6 Q On October 27th we saw that email from Ms. Jankowski.

7 A Correct.

8 Q Was she given an attendance occurrence for that?

9 A No.

10 Q This day when you met with her on this memo, November 1st,
11 had you witnessed her doing this same thing again?

12 A After this meeting?

13 Q No. No, no. I'm talking about before this meeting, leading
14 up to this meeting, had she done the same thing again, in other
15 words on other days?

16 A Yes.

17 Q Did she receive attendance occurrences for that?

18 A No.

19 Q After this meeting with her on November 1st, did she listen
20 to the instructions that you had laid out for her in this memo?

21 A No.

22 Q What did she do?

23 A The very next day she did the same thing.

24 Q And on that particular day, November 2nd, did she -- did
25 she receive an occurrence on that day?

Schroeder - Cross by Mr. McMahon

1 A Yes.

2 Q And if we can, I would like to take a look at Defendant's
3 Exhibit 15th. And that's in the binder again, sir. And it is
4 on the front page of this document?

5 A Correct.

6 Q Do you see the entry down there?

7 A Yes.

8 Q November 2nd.

9 A Yes, it says tardy three minutes start rule violation and
10 she received it.

11 Q And explain to the jury what a start rule violation means.

12 A I meant that was -- it was clearly noted in the attendance
13 policy for all employees, at the start of your shift and the
14 bell rings, you must be ready to start work. You must be in
15 the building, be prepared, have your whatever is required for
16 PPE, and ready to be en route to your work station, your work
17 assignment.

18 Q You're saying PPE, I mean, are we talking, like, heavy-duty
19 equipment and, you know, hazmat suits and stuff we're putting
20 on. What are we talking about?

21 A No. It's personal protective equipment. The rule at that
22 time in the warehouse was that everybody, including myself, had
23 to have safety shoes to enter the warehouse.

24 Q We're talking about a pair of shoes?

25 A A pair of shoes.

Schroeder - Cross by Mr. McMahon

1 Q Okay. Anything else?

2 A No.

3 Q So PPE is a fancy term for shoes; is that right?

4 A It's personal -- safety personal protective equipment.

5 Q Now, note here that -- and we have covered, if you
6 remember, actually it was Mr. DeRose was asking -- or actually
7 it was Ms. DeRose, excuse me - was questioning Maureen
8 Somerset about this.

9 Do you remember that?

10 A Yes. Right.

11 Q And we looked at Ms. Arroyo's time entries?

12 A Yes.

13 Q And on this day, November 2nd, she did punch-in timely,
14 right?

15 A Yes.

16 Q So why on the attendance record here is it indicated that
17 she is still considered tardy, according to Volvo?

18 A Because she left the building. When the bell rang at the
19 start of her shift she left the building and did not come back
20 into the building for three minutes.

21 Q I see. And under the attendance policy, you consider that
22 to be just as egregious as not punching in timely?

23 A Correct.

24 Q Okay.

25 THE COURT: Mr. McMahon, sometime in the next five

Schroeder - Cross by Mr. McMahon

1 minutes we are going to take a mid-morning break. So whenever
2 is convenient to you.

3 MR. McMAHON: Sure. Sure.

4 BY MR. McMAHON:

5 Q Mr. Schroeder, was November 1st the first time that
6 Ms. Arroyo received an attendance occurrence for leaving the
7 meditation room at the start bell?

8 A Yes.

9 Q And being outside the building?

10 A Yes.

11 Q Not before then, right?

12 A Correct.

13 Q Now, I think you started testifying about this, but did
14 there come a point where you posted a notice to other employees
15 to remind them not to park in the back of the building?

16 A Yes, I did.

17 Q I would like to show you Defendant's Exhibit 30.

18 A 30?

19 Q Yes. And that's in the binder?

20 A I have that.

21 Q All right. Now, what are we looking at here in Exhibit 30?
22 Can you describe this, please.

23 A Now, this is a communication to all employees from myself.
24 It was November 2nd, 2001 [sic] in regard to employee parking.
25 This communication is a reminder that all employee-designated

Schroeder - Cross by Mr. McMahon

1 parking is in the north parking lot. Due to the volume of
2 truck and trailer traffic at the south end dock areas of our
3 facility, which pose safety risk, no one is allowed to park in
4 this area.

5 Q Okay. And this was posted on November 2, 2011?

6 A November 2nd.

7 Q And to clarify, Ms. Arroyo was not disciplined for any of
8 these start rule violations until November 2nd?

9 A That's correct.

10 MR. McMAHON: Your Honor, I think this is a good
11 stopping point for the mid-morning break. I do have a little
12 bit of questioning left.

13 THE COURT: Okay. That's fine. I think an hour and a
14 half is kind of the end of the rope for poor Kris here. So we
15 will take a 15-minute, folks, and then it sounds like we're
16 going to get through Mr. Schroeder, and then we will be on to
17 the next witness after having Mr. DeRose having another shot at
18 Mr. Schroeder after that. But we'll take a 15-minute break and
19 we'll see you then. We'll break for lunch again at
20 12:45 today.

21 THE CLERK: All right.

22 (Jury out.)

23 (Recess taken.)

24 THE CLERK: All rise.

25 (Jury in.)

Schroeder - Cross by Mr. McMahon

1 THE CLERK: Okay, folks. Good morning again. Please
2 be seated.

3 Mr. McMahon, wherever you left off you can pick up
4 again.

5 MR. McMAHON: Thank you, Your Honor.

6 BY MR. McMAHON:

7 Q Mr. Schroeder, if I could direct your attention up there,
8 please, to the exhibit that was shown to you yesterday. It was
9 Plaintiff's Exhibit 227. It's a photograph.

10 A Yes, sir.

11 Q Do you have that in front you?

12 A Yes.

13 Q Do you remember testifying about this yesterday?

14 A Yes, I do.

15 Q And you said that one of those vehicles was David Miller's
16 car?

17 A Yes.

18 Q Do you know when this photo was taken?

19 A No, I have no idea.

20 Q Is there any indication of a date on the photo?

21 A I mean, I see some numbers up here, but not a date that I
22 can see.

23 Q You see like a Bates number, right, for where it was
24 produced in the case?

25 A It says 227, and then there's a 275 underneath there with a

Schroeder - Cross by Mr. McMahon

1 bunch of zeroes.

2 Q Right. And there's no indication of a date on the photo,
3 right?

4 A No, there isn't, sir.

5 Q Do you even know when you first saw this?

6 A As far as I can recall, here.

7 Q In connection with this case?

8 A Yes.

9 Q So you don't think you saw it in real time back in --

10 A Whenever, I don't know. I don't recall seeing this.

11 Q -- back in 2011.

12 Okay. If I could direct your attention, please, to
13 Plaintiff's Exhibit 234. Get that in front of you for just a
14 second?

15 THE COURT: Has that been previously admitted?

16 MR. McMAHON: Yesterday, your Honor. Yes.

17 THE COURT: Okay. Thank you.

18 BY MR. McMAHON:

19 Q Mr. Schroeder, do you remember Mr. DeRose questioning you
20 about this yesterday?

21 A Yes, I believe so, yes.

22 Q Do you remember him questioning you about the possibility
23 of you having never signed it?

24 A Correct. Yes.

25 Q Is it in, in fact, true that you signed this?

Schroeder - Cross by Mr. McMahon

1 A I did sign this document.

2 Q Okay. And can I show you, please, Defendant's Exhibit 31.
3 That's in the notebooks you have there.

4 A The same document.

5 Q And that's your signature there, right?

6 A Yes, it is.

7 Q And you have an indication for Ms. Arroyo down below. What
8 does it say there?

9 A "Refused to sign."

10 Q Now, this particular corrective action plan, it was a
11 verbal warning, correct?

12 A That's correct. Step one, verbal warning.

13 Q Okay. And you say there, "Your action violated the shift
14 start time," and I think you wrote meditation again -- but
15 meditation, right, it's supposed to be?

16 A Oh, yeah. I am so sorry.

17 Q "Your action violated the shift start time and meditation
18 room guidelines communicated to you on November 1st, 2011."

19 A That's correct.

20 Q Was the only violation of that the fact that Ms. Arroyo was
21 parking in the back of the building?

22 A Of course not.

23 Q What was the issue?

24 A She -- at the start of her shift she's supposed to be
25 walking to her job assignment. However, she left the building.

Schroeder - Cross by Mr. McMahon

1 She was outside the building, not ready to work.

2 Q Okay. So to clarify, let's say if Ms. Arroyo was parked in
3 the front employee lot, where all of the other employees park,
4 right?

5 A Okay.

6 Q But she's still outside the building when the shift bell
7 rings, is that a start violation?

8 A Yes.

9 Q So she would be disciplined the same way, regardless of
10 where she is parked?

11 A Correct.

12 Q Now, this particular one you give a verbal warning, but you
13 go on to say something else, right?

14 A "Additionally, you will be charged with .50 occurrence for
15 violation of the start rule policy, subject to our guidelines
16 in our attendance policy."

17 Q Okay. So not only have you given a verbal warning to her
18 in connection with the guidelines you provided. But also under
19 the attendance policy it essentially counts as a tardy, right?

20 A Correct.

21 Q And I think we saw that on the attendance document that we
22 looked at just before break, right?

23 A Yes.

24 Q She had half of an occurrence.

25 Now, I think you testified before that she did the

Schroeder - Cross by Mr. McMahon

1 same thing again on November 4th, 2011. Can we take a look at
2 Defendant's Exhibit 32? And this is the same sort of
3 situation, right?

4 A Yes, it is.

5 Q She is doing the same kind of routine, if you will, on
6 November 4th?

7 A That's correct. Except it's a formal written.

8 Q Next step, right?

9 A Yes.

10 Q And from an attendance standpoint, she also got half an
11 occurrence for that day.

12 A Yes, she did.

13 Q All right. Now, from the attendance record, do you know
14 whether this occurrence would be an occurrence that brought her
15 to termination after you audited the records?

16 A I believe that's true.

17 Q To clarify, if Ms. Arroyo's only attendance violations had
18 been these two instances, on November 2nd and November 4th,
19 would she have been terminated?

20 A No.

21 Q So why was she terminated?

22 A Cumulative attendance -- everyone will occasionally be
23 tardy. Everyone, a child will be sick and they will be absent.
24 They may even, on occasion, have two in a month, and they may
25 get a step one.

Schroeder - Cross by Mr. McMahon

1 Q Right.

2 A That's where the employee counseling comes in. The problem
3 is where there's cumulative occurrences over a one-month period
4 or a six-month period that exceed the policy. Then action will
5 be -- the employee counseling corrective action plan will be
6 taken.

7 Q And if you have four of those steps, right, you can get to
8 termination under the attendance policy?

9 A It is possible, yes.

10 Q Okay. And that -- after auditing the records that's where
11 you determined Ms. Arroyo had gotten to, right?

12 A Correct.

13 Q Did you provide her a separate, I guess, CAP or document,
14 if you will, detailing the fact that she would be terminated?

15 A Yes, I believe so.

16 Q Can I show you what has been entered into evidence as
17 Defendant's Exhibit 35?

18 A Okay.

19 Q And is this the corrective action plan that you presented
20 Ms. Arroyo in connection with the termination?

21 A For November 8th, correct.

22 Q November 8th, yes.

23 A Yes, it is.

24 Q Okay. And was that the date -- I think you testified
25 earlier, was that the date of Ms. Arroyo's termination from

Schroeder - Cross by Mr. McMahon

1 Volvo?

2 A Yes, it is.

3 MS. DeROSE: Could I direct your attention to
4 Defendant's Exhibit 6. Now, we've seen this document a couple
5 of times throughout the trial.

6 A One second please.

7 Q Yes, sir.

8 A What was that number?

9 Q Defendant's Exhibit six?

10 A Six?

11 Q Six, yes. And it's in the notebook.

12 A Oh, it's in the book?

13 Q Yes, sir. Defendant's Exhibit 6.

14 A I am looking at the wrong book.

15 Q That's okay.

16 Yes. I want to direct your attention to a question
17 Mr. DeRose was asking you yesterday. There's a notation on the
18 policy where it says, "Volvo military policy - maximum military
19 policy five years.

20 A I see that at the bottom.

21 Q I believe Mr. DeRose was asking questions under USERRA
22 about whether there is a five-year limit. Do you know if
23 there's exceptions to the five-year limit?

24 A I believe there is, yes.

25 Q Was this document designed to count up days so Volvo could

Schroeder - Cross by Mr. McMahon

1 know the very day that Ms. Arroyo reached five years so we
2 could terminate her?

3 A No, it wasn't.

4 Q Why was it created?

5 A It was just created to document -- it was created to
6 document her military -- when she was aware from the facility.
7 When people are not at the facility --

8 Q Yes.

9 A -- it's important to know they're away from the facility
10 for any length of time, whether it be short or long. It is
11 simple as that.

12 Q And in looking at this chart, and you talked a little about
13 Mr. Temko offered testimony about how he prepared this. In
14 looking at this, setting aside Ms. Arroyo's first year of
15 employment, where she joined you guys midway through the year,
16 right? In 2005.

17 A I am sorry. I didn't understand that question.

18 Q Yes. It was a bad question, asking you a question and
19 having you refer to the document at the same time. It's my
20 fault.

21 Ms. Arroyo joined Volvo, was hired by Volvo, in
22 mid-June of 2005, right?

23 A Correct.

24 Q Setting that aside and looking at this chart, setting 2005
25 aside, is it fair to say that Ms. Arroyo had the least military

Schroeder - Cross by Mr. McMahon

1 days in 2011?

2 A Excluding 2005.

3 Q Yes, sir.

4 A Yes.

5 Q So did Ms. Arroyo's military leave have anything to do with
6 why she was terminated in 2011?

7 A No.

8 Q Whose decision was it to terminate Ms. Arroyo's employment?

9 A It was mine.

10 Q You testified before about, you know, advising HR about the
11 decision. You do that pretty routinely, right?

12 A I would do that in all cases.

13 Q But in terms of the decision in terms of whether or not to
14 let an employee go, that's ultimately your decision, correct?

15 A Yes.

16 Q There was some discussion on your examination from
17 yesterday about discretion to excuse absences.

18 Do you remember that?

19 A Yes.

20 Q And we already went over some instances of that with
21 Ms. Arroyo when we talked about group therapy day, things like
22 that.

23 I guess what I want to talk about a little bit, Mr.
24 Temko mentioned this as well, under the policy there is excused
25 days and there's also inexcused days, right?

Schroeder - Cross by Mr. McMahon

1 A Yes. It is defined in the policy.

2 Q Okay. Can you talk about the excused days, kind of the
3 days Mr. Temko referred to you get five days a year. What are
4 instances that count for excused days?

5 A Examples, as we have explained to our employees is -- and
6 we know that this happens -- there's five excused days a year.
7 If your car breaks down on the way to work, you take it to the
8 repair shop, just bring us the document and we will excuse the
9 day.

10 Q Correct.

11 A If one of your parents or children get ill and you have to
12 assist them or take them to the doctor, just bring a copy of
13 the document and we will excuse it.

14 Q Or even if the employee gets sick, right?

15 A Any circumstances like that. We know that things happen.

16 Q Right.

17 A You know. We thought it was a good policy. I mean, you
18 know, in addition to the 36 vacation days and the seven
19 holidays and five excused days, I thought our policy was fairly
20 liberal and fair to everyone.

21 Q Do you know if throughout her employment Ms. Arroyo ever
22 received any excused days?

23 A I believe she did. Yes.

24 Q I'm going to take a look at that.

25 Defendant's Exhibit 15 in the notebook. And I would

Schroeder - Cross by Mr. McMahon

1 kind of like to start at the back of that document if we can
2 and work our way forward.

3 A This is a number of pages.

4 Q Yes, sir.

5 And I direct your attention to the very last page and
6 it has a Bates number of 2785.

7 A Okay.

8 Q Okay. If we could take a look, please, at 2008 for some
9 examples here.

10 Do you see that?

11 A Yes, I see that.

12 Q Actually, let's start in 2005 and kind of work our way up.
13 There's a notation in kind of a narrow column there where
14 there's I's and E's and some M's.

15 Can you explain what those mean?

16 A An E indicates it's an excused absence, an I indicates it's
17 inexcused, and M stands for military.

18 Q Okay. So for example, in looking at 2005 for Ms. Arroyo's
19 records there, it looks like on August 4th she left early
20 because she was sick.

21 Do you see that?

22 A Correct.

23 Q All right. And because of that, that time was excused,
24 right?

25 A Yes, it was.

Schroeder - Cross by Mr. McMahon

1 Q Take a look at August 5th. It says, "Sick Doc." What does
2 that mean?

3 A That means she provided a document to us and then was
4 excused that day. And, of course, we tally up just to the
5 right of it how many excused days because there's a limit of
6 five.

7 Q Right. Right. Okay.

8 And, in fact, taking a look at 2008 for some other
9 examples, it looks like there was a situation where her sister
10 was involved in an auto accident?

11 Do you see that.

12 A Yes. That was excused twice, both days.

13 Q And then going to '09. All right.

14 Take a look at January 16th of '09.

15 Do you see that?

16 A I have to go to a different page?

17 Q Yes. Bates 2784.

18 A Yes, I have that.

19 Q Okay. Take a look at the entry for January 16th. What
20 does that say?

21 A It says Ms. Arroyo called off that day and D-O-C is just an
22 abbreviation that it was documented and excused for one day.

23 Q So again she was sick and she provided a document, right?

24 A Correct.

25 Q So it was excused?

Schroeder - Cross by Mr. McMahon

1 A Yes, it was.

2 Q Take a look going forward into 2010. All right. 2010 --
3 and this is actually right after she receives -- pretty close
4 to right after she received her step one verbal warning, right?

5 A Correct.

6 Q There is a date range there of 11-10 to 11-12.

7 Do you see that?

8 A Yes. It was noted that it was the 10th, 11th and 12th.

9 Q Right.

10 A She called in sick. She provided a document to us. She
11 was excused for three days.

12 Q Okay. I want to talk to you about why -- we talked a lot
13 about parking in the back of the building.

14 A Mm-hmm.

15 Q Was there a different way for Ms. Arroyo to access the room
16 you provided her as the meditation room besides parking in the
17 rear of the facility to access that room?

18 A Yes.

19 Q Okay. What could she have done differently than park back
20 there?

21 A She could have parked in the employee -- the designated
22 employee parking lot, entered the building at the employee
23 entrance where they enter, and then proceed through the
24 warehouse -- after going to the locker room or whatever she had
25 to do, and go through the warehouse.

Schroeder - Cross by Mr. McMahon

1 Q Okay. I'm going to show you some photos of the facilities.

2 A Okay.

3 Q And I'm going to have you kind of walk us through what that
4 actually looks like. Is that okay?

5 I'm going to show you first, Exhibit 39A. And that is
6 in the binder. And I think for the Exhibit 39 in the binder,
7 Mr. Schroeder, we combined these photos into kind of one
8 exhibit so that we will just start at the beginning. I'll wait
9 until you have that in front of you here.

10 Okay. Do you have that in front of you,
11 Mr. Schroeder?

12 A Yes, I do.

13 Q Okay. So in looking at Exhibit 39, the photo that is on
14 the screen right now, can you kind of explain to us, and again,
15 that's that first photo, can you explain to us what we are
16 looking at here and where this is at the Joliet plant?

17 A To the left of the door there is a hallway that is the
18 employee entrance from the exterior of the building. So
19 whenever an employee comes in, that's the door to the
20 warehouse. And immediately to the left of it as you enter --
21 the right in this picture -- is the employee time clock.

22 Q Okay. Is that that black box with the lit-up screen there?

23 A Yes.

24 Q Is that the clock?

25 A Yes.

Schroeder - Cross by Mr. McMahon

1 Q So that's where employees punch-in when they arrive?

2 A Correct.

3 Q Now, in taking a look at this, we can kind of see some
4 racks there, and I'm going to go to 39B, the second photo to
5 try to orient folks here.

6 It looks like these racks span several rows, correct?

7 A Correct.

8 Q All right. And there's kind of -- it looks like a pathway
9 here coming from the clock going right in this picture.

10 Do you see that?

11 A That's what we call a warehouse aisle.

12 Q Okay. And can we take a look where that aisle takes us in
13 the next picture?

14 A This picture is from the end of that aisle adjacent a few
15 feet from the time clock. It shows you the rear of the
16 warehouse where the operations office is. That's probably --
17 the building's 400 feet deep, so we're inside the building.
18 It's probably 275, 300 feet.

19 Q And just to be clear, from where we're looking at in this
20 picture here, the third picture that's in front of the jury
21 right now, do you see where that American flag is hanging up
22 there?

23 A Yes.

24 Q Is the operations room there?

25 A Yes. Right at that point.

Schroeder - Cross by Mr. McMahon

1 Q And it that connected to -- was the meditation room
2 connected there?

3 A It's inside that office.

4 Q Part of it?

5 A Part of it, yes.

6 Q So when we're talking about accessing the meditation room,
7 we're talking about walking from the time-punch clock that we
8 just looked at, down this aisle to where the American flag is?

9 A Yes.

10 Q And that's it?

11 A That's it.

12 Q Okay. Let's take a look at the operations office if we
13 can, the next photo. This is a little bit closer to it, right?

14 A Yes.

15 Q And by the way, the dates of the these photos, July 8,
16 2016, do you know who took these photos?

17 A I did.

18 Q And why did you take the photos?

19 A At your request.

20 Q For purposes of this case, right?

21 A Yes.

22 Q Okay. And can you explain to us what we're looking at here
23 before we go into the actual operations office? Where is this
24 this in the --

25 A Okay. This is the rear of the building, and this is what

Schroeder - Cross by Mr. McMahon

1 we call the operations office.

2 Q Right.

3 A On the left side by where the guard rail is open, there's
4 one entrance door on the left and there's one entrance door on
5 the right. And just for reference, just to the right of the
6 right door is another door with a little sign above it and
7 that's the first aid room.

8 Q Okay.

9 A That was the alternate meditation room. So you could enter
10 this operations office area from either the left door or the
11 right door.

12 Q Okay. I see. And I'm going to take the next exhibit and
13 show what the actual inside of the operations office looks
14 like.

15 A Yes.

16 Q What are we looking at here in this photo?

17 A This is a supervisor's office that's with inside the
18 operations office. And as I said, it's a hard room with a
19 closed door.

20 Q Was this a picture of what Ms. Arroyo used for the
21 meditation room? There is a sign that says do not disturb?

22 A That was the sign that was used.

23 Q And she was provided that?

24 A Yes.

25 Q Can we take a look at the picture and what the inside of

Schroeder - Cross by Mr. McMahon

1 the office looked like. It looks like you have a Chicago
2 Blackhawk's fan. Yes, that's Bernie. A couple of them. And
3 does this office look fairly similar to what it looked like
4 when Ms. Arroyo used it, in terms of the layout?

5 A Yes. I'm sure it's pretty much identical.

6 Q Now, we kind of stepped through what it looks like walking
7 through the facility from the time-punch clock to get to this
8 room?

9 A Mm-huh.

10 Q Why wasn't Ms. Arroyo doing that? In other words, why
11 wasn't she parking in the front where the employees were
12 parking and just stepping through it.

13 MR. DeROSE: Objection to why someone else doesn't do
14 anything.

15 THE COURT: I will sustain that objection. You can
16 come up with another formulation. I don't think he can tell
17 why she was doing it you unless she maybe told him.

18 BY MR. McMAHON:

19 Q Okay. Did you become aware of a time where -- well, I will
20 ask it this way.

21 When Ms. Arroyo first started using the meditation
22 room, was she accessing it the way we just looked at?

23 A Yes.

24 Q Did there come a time when she stopped doing that?

25 A Yes.

Schroeder - Cross by Mr. McMahon

1 Q Did she explain to you why she stopped doing that?

2 A She stated to us after her supervisor discovered, in one of
3 her walks, we didn't see this at first, that she was not
4 wearing her safety shoes.

5 Q And that was that same sort of pair of shoes that we talked
6 about earlier.

7 Are material handlers required to wear safety shoes?

8 A There's signage at the door and the warehouse that says
9 "Safety shoes are required beyond this point."

10 Q All right. I want to take a couple of exhibits on that
11 with you, if we could. And these are both from the binder?

12 A Right.

13 Q Defendant's Exhibit 25.

14 A Put all of these pictures back?

15 Q You can put the pictures back, sir.

16 Defendant's Exhibit 25. I will wait until you can get
17 that in front of you?

18 A Okay.

19 Q Do you recognize this document, Mr. Schroeder.

20 A Yes, I do.

21 Q Okay. Can you explain to the jury what this document is?

22 A This is a document of -- to Ms. Arroyo, from myself, dated
23 October 18th of 2011, and it's a response to her inquiry about
24 our safety shoe policy.

25 Q Okay. And you started to describe an incident where you

Schroeder - Cross by Mr. McMahon

1 said a supervisor had not seen her wearing her safety shoes.

2 A It had not been observed before David Miller observed it.

3 Q And there's a references to David Miller observing it here
4 in this email, right?

5 A Yes.

6 Q Okay. Can you explain what that particular incident was as
7 you kind of outlined it here?

8 A Of course we granted her accommodation request for a place
9 to meditate or relax before work or during breaks.

10 Q Right.

11 A So we told her that she can "use the assigned room for 15
12 minutes prior to the start of her shift and during your breaks.
13 It is the office and warehouse operations office."

14 Q Okay.

15 A On October 17th at the start of the shift, David Miller, a
16 warehouse supervisor observed that when you exited the assigned
17 room you were not wearing safety shoes, in violation of the
18 safety shoe policy. Per the policy, all warehouse, management,
19 clerical and summer help are required in the warehouse area,
20 which include offices adjacent to the warehouse, to wear safety
21 shoes. A copy of this policy was mailed to you on June 21 of
22 2011.

23 Q All right. And it looks like here in the memo you indicate
24 that Ms. Arroyo thought that the safety shoes were only
25 required on the job.

Schroeder - Cross by Mr. McMahon

1 A That was her statement. So I gave her a reminder that
2 safety shoe policy for this facility -- "Your reply was a
3 request that we compensate you for your time to put on your
4 safety shoes or provide an alternative private room."

5 Q So Ms. Arroyo told you she wanted to be paid for putting on
6 her shoes?

7 A Yes.

8 Q And you said you're not paying her for that?

9 A Correct. I would not pay her.

10 Q After this memo, is that when Ms. Arroyo started parking in
11 the back of the building?

12 A Yes.

13 Q And regarding the safety shoes, you indicate here that you
14 had sent a copy of the safety policy to Ms. Arroyo. Can we
15 take a look at Defendant's Exhibit 26 out of the binder. I
16 will ask you to get that in front of you in just a second.

17 A What number was that?

18 Q Defendant's 26.

19 Do you have that in front you?

20 A Yes, there's four pages.

21 Q All right. And what is this that we're looking at in 26?

22 A This is a document to all employees, dated June 10th of
23 2011. It's the safety shoe program.

24 Q And the safety shoe program, was that something that Volvo
25 paid for its employees?

Schroeder - Cross by Mr. McMahon

1 A Yes. Annually, each employee is compensated and allowed to
2 purchase new -- replace their safety shoes. The company pays
3 \$100 toward the purchase of safety shoes annually.

4 Q And did Ms. Arroyo receive a copy of this?

5 A Yes, she did.

6 Q And take a look at the last page of the exhibit, please.
7 And what are we looking at now on that last page?

8 A This is a copy of the proof of delivery that this document
9 was mailed to her.

10 Q Do you know why the document was being mailed to her?

11 A Because she was not at work at that time.

12 Q She had a general --

13 A Yes.

14 Q Okay. To be clear then, with respect to the safety issue,
15 this is not going to cost Ms. Arroyo any money to comply with
16 it?

17 A No.

18 Q And she started parking in the back of the building because
19 she didn't want to put on a pair of shoes?

20 A Correct.

21 I have no further questions right now.

22 THE COURT: Okay. Thank you.

23 MR. DeROSE: What time have we got, Judge?

24 THE COURT: It's 12:05, and I'm happy to say
25 Mr. McMahon delivered on his half hour.

Schroeder - Redirect by Mr. DeRose

1 MR. DeROSE: Judge, I know you told the jurors 12:45,
2 so if I am not finished by 12:40, so that you can even be
3 better on your plan, would you tell be I have five minutes
4 more?

5 THE COURT: I will be happy to do that.

6 MR. DeROSE: I want to finish before lunch.

7 THE COURT: Okay. You've got it. I will give you a
8 five-minute warning. It's like in the NFL, only it will be
9 five minutes instead of two.

10 REDIRECT EXAMINATION

11 BY MR. DEROSE:

12 Q You tell us that I showed you a lot of emails in 2005 and
13 they didn't lead to the loss of her job or discipline of
14 Ms. Arroyo -- you looked at emails that I showed you from 2006,
15 2007, 2008, 2009, and 2010, and none of those led to discipline
16 or the termination of Ms. Arroyo; is that correct?

17 A I don't believe it was 2010. It was 2005 to 2009.

18 Q Oh, is that all that he talked about. And you said, none
19 of those communications you were having with the people, Mr.
20 Olin for the first few years and Ms. Regina Williams for the
21 last couple of years, none of those lead to the discipline of
22 my client, right?

23 MR. McMAHON: Objection, assuming facts not in
24 evidence. Timing of communications.

25 THE COURT: Well --

Schroeder - Redirect by Mr. DeRose

1 MR. DeROSE: Judge, I'm just trying to do a background
2 to his questions, so he knows what I'm asking.

3 THE COURT: I understand. And, you know, the jury
4 will have to remember what the timing is there. You're just
5 trying orient him to your questions.

6 BY MR. DeROSE:

7 Q Do you remember telling him, "Oh, yeah, he showed me all of
8 those emails and none of them lead to any discipline?"

9 A For the time period that was stated, correct?

10 Q Yes.

11 A I just want to make sure I answer your question correctly,
12 sir.

13 Q Right. That's what I want to know about, the incident for
14 him, you said none of those led to any discipline, didn't you?

15 A None of those --

16 Q Emails.

17 A -- led to her termination.

18 Q And also, during that time you were asking if you could
19 discipline. "If we follow our policies here at Volvo," you
20 said several times in those emails she had discipline, didn't
21 you?

22 A Most of the emails were requests for support and help for
23 how to document absences that weren't clear to us, with a
24 notation that if they're not cleared, could lead to discipline.

25 Q Sir, when you wrote the initial discipline for each of the

Schroeder - Redirect by Mr. DeRose

1 conversations, you say, "If I apply our Volvo discipline, she
2 is at termination." Here in 2005, here in 2006, here in 2007,
3 did you not?

4 A I don't believe that to be a true statement, sir.

5 Q All right. But you were getting responses from Bruce Olin
6 to both you and to Temko, "Sorry it's not what you want to
7 hear. Sorry there's nothing you can do about it."

8 Do you remember that?

9 A I recall those emails, yes.

10 Q Did you ever ask him why he was apologizing because he
11 wasn't telling you what you wanted to hear when you said our
12 policy right now puts her at termination?

13 A I have no idea why he wrote that on these emails.

14 Q But he told you the law said she gets to do those things,
15 didn't he?

16 A We did that and we excused all of that time.

17 Q And there were a few times in your own email, where we saw
18 you say, "Well, she's not keeping in touch with us, but I guess
19 there's nothing we can do about it," right?

20 A There were times when we did not have communications on her
21 absences.

22 Q And you knew that the law said she did not have to
23 communicate with you, according to what HR was telling?

24 A In regards to what, sir? Her --

25 Q Communicating with you, all of those times you wrote on

Schroeder - Redirect by Mr. DeRose

1 there, "I guess there's nothing we can do about this."

2 A And you may be aware, there was a requirement for her to
3 tell us and share documents with us when she goes away on
4 drills.

5 Q Sir, you knew she was on 72-day drill training, 90-day
6 drill training, and then long periods of time. And you said,
7 "We thought she should come back at this date," and you said,
8 "And she's not back yet. But I guess there's nothing we can do
9 about it." What did you want to do about it?

10 A I wanted to understand what her responsibility is when
11 she's to return to work. Simple as that.

12 Q And what -- also, it meant you had no authority and control
13 over her comings and goings when she was doing those orders;
14 isn't that true?

15 A Why would I want control of her? She is doing an
16 obligation to the military. That's between her and military.

17 Q Well, the people in your own company are telling you,
18 "Sorry it's not what you want to hear. Sorry, you can't do
19 anything about it." And you even say yourself, "I guess I
20 can't do anything about this."

21 A Sir, in nearly all of my emails I was asking for support,
22 clarification what time would be excused under military.

23 Q Caitlyn, can you put up Exhibit 32? Counsel showed you an
24 Exhibit 32, and you indicated, "Yes, and we brought her back to
25 work."

Schroeder - Redirect by Mr. DeRose

1 MS. DeROSE: Is that Plaintiff's Exhibit?

2 MR. DeROSE: It's Exhibit 32. Counsel, did you show
3 our 32 or was that yours?

4 MR. McMAHON: I believe it was yours.

5 MR. DeROSE: All right. Put up our 32.

6 MS. DeROSE: Do you want to publish them to the jury?

7 MR. DeROSE: Yes. No. Because now we don't have
8 time.

9 THE COURT: If this is in evidence, it's fine to go to
10 the jury. In fact, you could do plaintiff's or defendant's
11 Exhibit 32. They're both in evidence.

12 BY MR. DeROSE:

13 Q This was the email that was sent by Michael Temko. And he
14 wanted to know about your rights and her responsibilities in
15 keeping you guys informed. And you told Counsel, "Yeah, we saw
16 those emails, but that was in 2007." And you said, "But we
17 brought her back to work," after this exchange, right?

18 A I'm not sure I understand your question, sir.

19 Q You told Counsel that at this time, after you and Temko had
20 this email exchange with Bruce Olin on the second page, Cait.
21 You say you brought her back to work. Olin tells you on the
22 bottom of the page, "Michael, unfortunately there isn't a lot
23 we can do. We just have to wait for her. Sorry it isn't what
24 you wanted to hear."

25 Do you see all of that?

Schroeder - Redirect by Mr. DeRose

1 And then you told Counsel after that email, "We
2 brought her back." Mr. Schroeder, didn't you know you had no
3 choice in the law? You had to bring her back?

4 A Of course.

5 MR. DeROSE: Caitlyn, take this back, please.

6 BY MR. DeROSE:

7 Q We talked about Colonel Gorski of the ESGR, and how proud
8 you were when you guys all got that award, as a cooperative
9 employer understanding that these active army reservists have
10 to leave for a period. That is a coveted award. Do you know
11 who nominated you or they wouldn't even have known about you?

12 A Yes, of course. Luz Arroyo.

13 Q Did you ever say thank you to her for that?

14 A I am absolutely certain I did.

15 Q What year was that?

16 A It was 2010.

17 Q She didn't know at the time about any of these emails, did
18 she?

19 A No, I don't think so.

20 Q And by the end of 2010, you and she were already starting
21 to have some troubles together, weren't you?

22 A Ms. Arroyo and I had some misunderstandings. We didn't
23 always agree on everything. That's true.

24 Q And she's the one who not only talked Gorski into giving
25 you that award, but also brought Gorski in to interplay with

Schroeder - Redirect by Mr. DeRose

1 you when she thought she wasn't getting her rights, didn't she?

2 A That's correct. That's the best thing that ever happened.

3 Q And Gorski came in --

4 A I was getting the answers that I needed to help support
5 what is our responsibility.

6 Q But you were a little ticked that Gorski came in, weren't
7 you?

8 A It was welcome.

9 Q He was? But you told your bosses that every time Arroyo
10 has a problem, she brings Colonel Gorski in, didn't you?

11 A No. I don't recall that. I don't recall that ever.

12 Q Well, let's see if I can help you remember something maybe.
13 Can you put up that 144? Wait a minute, we have to give him a
14 copy. Where is that?

15 A Was that a 144? I don't have that.

16 Q Yeah, I know you don't. We're going to give it to you.

17 MR. DeROSE: Excuse me, Judge, I am in a flurry of
18 paper.

19 THE COURT: You found it. Okay. And this is
20 Plaintiff's 144.

21 MR. DeROSE: Yes, your Honor. The first one.

22 THE COURT: Okay. Is there any objection to this
23 exhibit?

24 MR. McMAHON: There is subject to our --

25 THE COURT: The usual understanding.

Schroeder - Redirect by Mr. DeRose

1 MR. McMAHON: The usual understanding, yes.

2 THE COURT: Okay. So receiving this into evidence
3 pursuant to the usual understanding. And you can -- I am
4 sorry. You can publish it to the jury if you like.

5 MR. DeROSE: Well, all right, Judge. Thank you.
6 Would you put up 144 first?

7 BY MR. DeROSE:

8 Q This is an email that, sir, that you sent to Bruce Olin,
9 Regina Williams, both in HR, to the vice president of the
10 company and to Maureen Somerset about a meeting you had with
11 Colonel Gorski, right?

12 A I'm trying to read this, sir. I don't see a reference --

13 Q You know what, you don't have to read it all. I just want
14 to direct you to a particular section.

15 A I don't see anything that says Colonel Gorski.

16 Q Sir, would you wait a second, please. Caitlyn, would you
17 go up to the last sentence before -- it's two sentences up from
18 the bottom. Do you see it? "This military veteran's case."

19 You wrote to all of those big wigs in the company in
20 April of 2011, some six to eight months or so after you got the
21 award from ESGR. You wrote, "This military veteran's case is
22 very difficult, as at every turn when we try to work with her,
23 she rejects all local offers of support, resulting in outside
24 mediation, ESGR," and that was Colonel Gorski, wasn't it?

25 A Ultimately when I met with the ESGR it was Colonel Gorski,

Schroeder - Redirect by Mr. DeRose

1 yes.

2 Q So already back in April of 2011 you were telling Bruce
3 Olin and Regina Williams and the vice president of the company
4 that every time she thinks she needs her rights, she goes
5 running to get the Colonel to come in and tell me what her
6 rights were, right?

7 A I told him that the case was difficult because each time
8 that we offered assistance and help and accommodations or time
9 or anything, she agrees and then she comes back and disagrees.
10 It was frustrating.

11 Q So you were frustrated by it?

12 A There was some level of frustration.

13 Q Why?

14 A We have an agreement and then we don't have an agreement.
15 Why did that happen?

16 Q Well, sir, she had already given you what she thought was
17 the law, and she said you were not following it. Did you have
18 a discussion with her when you saw the law in writing?

19 A We were given some documents. We offered her what we
20 thought was reasonable time when she requested it. Frequently
21 she agreed and then came back and disagreed.

22 Q So when you call the -- when you wrote the vice president
23 of the company that she was a very difficult case because she
24 injected the army into it, did you tell him that you were
25 getting frustrated?

Schroeder - Redirect by Mr. DeRose

1 A I don't recall that exactly, sir.

2 Q Well, what did he say to you when this call came in?

3 A I don't recall, sir.

4 Q Well, you remembered everything a little bit ago.

5 Do you remember anything that any of these people said
6 to you of after you sent them that email?

7 A Sir, I can't -- if there's a document with a reply on it, I
8 would more than happy to read it.

9 Q I understand that. If I don't have a document to show you,
10 sir, I can't do that.

11 A Okay.

12 Q I'm asking you, did anybody respond to you when you tell
13 them, "This is getting frustrating. She's a very difficult
14 case. She's got the army breathing down my throat"?

15 A Those are not my words, sir. I didn't say that.

16 Q I know. But I'm asking you based on what you say about her
17 being a very difficult case, does anybody higher ups respond to
18 you or did they leave you all alone to handle it your own way?

19 A I don't recall what replies I got, sir. This is quite some
20 time ago. Did we talk? Did I get -- I don't know if I got a
21 reply or not.

22 Q All right. By this time, April of 2011, you were already
23 writing to Regina Williams. We looked at that plan this
24 morning telling her what you were going to do about the date of
25 termination. So for six months before that, all of the way

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1 back in April, you're already telling her that this lady is a
2 problem, and six months later we know you terminate her.

3 Did you ever give anybody information in April, May,
4 June and July, "If I can find a way to get rid of her, I want
5 to do it"?

6 A Of course not.

7 Q Of course not.

8 Well, let's look and see what else you wrote. On the
9 day that you terminated her, that was November 8th?

10 A That's correct. 2011.

11 Q You, again, on that very day, wrote to Regina Williams, and
12 Mr. Scholl and other people higher up in the HR chain,
13 complaining that Arroyo had been a problem and that brought
14 ESGR down on you, hadn't it?

15 A What document are you referring to, sir?

16 Q I'm asking do you remember complaining that she had caused
17 a lot of problems for you more than being one to three minutes
18 late?

19 A I don't recall stating those in that way, sir.

20 Q You looked at all of the important email before coming to
21 this trial, didn't you?

22 MR. McMAHON: Objection, your Honor, as to what the
23 important emails are.

24 MR. DeROSE: The ones you thought were important.

25 THE COURT: I will sustain the objection.

Schroeder - Redirect by Mr. DeRose

1 MR. McMAHON: Thank you.

2 BY MR. DeROSE:

3 Q Sir?

4 A Sir, I did look at my deposition, and I did look at the
5 exhibits that were in my deposition. Am I going to remember
6 each one of them, no.

7 Q Do you remember complaining about Arroyo bringing ESGR into
8 your life on the very day that you terminated her?

9 A I don't recall that, sir.

10 Q Will you look at Exhibit 245?

11 MR. McMAHON: Your Honor, can we have a quick sidebar
12 in connection with this.

13 THE COURT: Sure. I've never seen this exhibit. So
14 if someone can bring a copy of this to me that would be great.
15 I just need to take a -- give me one second here, and I'm going
16 to look at this. So sorry.

17 (Sidebar.)

18 THE COURT: Okay. What's the objection?

19 MR. McMAHON: It's a relevance objection, Judge.
20 Actually, in her deposition, and we included some deposition
21 transcript from Regina Williams to provide context to our
22 objection to this document. She testified that Mr. Schroeder
23 was providing these indirect reports to her in connection with
24 her defense of an EEOC claim charge that Ms. Arroyo had already
25 filed. The way it happened was Ms. Arroyo first filed her

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1 first EEOC charge after she was suspended and then she filed a
2 second charge after her termination. So while this happens it
3 happens to be -- the date of her termination, Mr. Schroeder was
4 providing these in connection with her requests to provide
5 these documents.

6 THE COURT: Whose request? Williams?

7 MR. McMAHON: Yes. Yes. And she used it in
8 preparation for the EEOC questions.

9 THE COURT: Let me ask you a question. That sounds
10 like it's complicated. Isn't the point of this document,
11 Mr. DeRose, only that he was referring to the ESGR case?

12 MR. DeROSE: Well, we call it ESGR.

13 THE COURT: Right. But the point is this last
14 sentence.

15 MR. DeROSE: Yes.

16 THE COURT: So the rest of this email is complicated
17 and would bring in a bunch of stuff that nobody needs to know
18 about, including --

19 MR. McMAHON: Right, that's our point.

20 THE COURT: But here's my suggestion. Why don't you
21 hand this to him and you will reference that he has --

22 MR. DeROSE: Your Honor, I wonder --

23 THE COURT: He's refreshed him. I think that will
24 work. But if it doesn't work, we will be back here.

25 MR. DeROSE: I am not going into the EEOC.

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1 THE COURT: Understood.

2 MR. DeROSE: And I'm not trying to bring it out.

3 THE COURT: I think if we put this document in as
4 substantive evidence -- if you get him to admit that he
5 referenced to an email to Ms. Williams, that may be --

6 MR. McMAHON: Judge, I referred to in the Seventh
7 Circuit arguments, because this is his statement on the day of
8 the termination. Close in point of time. This witness --

9 THE COURT: I sustained -- your point is that last
10 sentence, though.

11 MR. DeROSE: Yes.

12 THE COURT: The rest of that is complicated to note
13 for record.

14 MR. McMAHON: That email was not actually referenced
15 at all by the Seventh Circuit panel in its opinion.

16 THE COURT: Whether it is or it isn't, the oral
17 arguments, I never listen to my own arguments.

18 MR. DeROSE: Nor did Counsel. He wasn't there.

19 MR. McMAHON: I wasn't in court. You have no idea
20 what I -- I haven't --

21 THE COURT: Let's see if the recollection works, and
22 I'll get this later. I don't need it right now. Thank you.

23 (Sidebar concluded.)

24 BY MR. DeROSE:

25 Q Mr. Schroeder, we gave you a document there dated on

Schroeder - Redirect by Mr. DeRose

1 November 8th, 2011, the date that you terminated Ms. Arroyo.

2 Do you see this at the top?

3 A Yes, I sent this November 8, 2011.

4 Q All right. Now, I only want to refer you to the last
5 couple of sentences of that email. So this would be an email
6 that you said after -- it's 11:09 -- 11:39 in the morning. So
7 by now Arroyo's been given her termination papers and she's
8 gone out of the building; is that right?

9 A No.

10 Q Well, and you won't do that until later in the evening?

11 A When she started her shift at 4:30.

12 Q All right. So this is about five hours before you
13 terminated her.

14 Now, I just want you to see a reference to the last
15 couple of sentences.

16 Did you tell those people that Arroyo was -- never
17 once cooperated with any offers of compromise or leniency that
18 you were suggesting?

19 A I stated that.

20 Q All right. Did you tell them that Arroyo had offered to
21 stay five minutes later or twenty minutes later, if you wanted,
22 if she started two or three minutes later?

23 MR. McMAHON: Objection, your Honor. Relevance. I
24 believe it goes to claims that are no longer before the jury.

25 THE COURT: I will sustain that objection.

Schroeder - Redirect by Mr. DeRose

1 BY MR. DeROSE:

2 Q And not only that, you said that she was not cooperative
3 unless you agreed to her terms, correct?

4 A That's what I stated.

5 Q And you said the best example of that was the ESGR case.
6 You mentioned the ESGR case on the very day that you're going
7 to terminate her in five hours.

8 What did you mean by "the ESGR case"?

9 A It was just used as an example.

10 Q Example of what?

11 A Something that -- and again, as I've already stated, sir,
12 on numerous occasions through all of our offers of support, we
13 would offer what we thought in good faith was good offers of
14 accommodations or whatever the case was over time to her. She
15 would agree, typically agree, and then later disagree and want
16 something different. It was frustrating. It was a bit
17 frustrating.

18 Now, however when the ESGR came, when Colonel Gorski
19 came to see us, he settled all of that. And it was very good.
20 It's not perceived as bad whatsoever at all.

21 Q While she was frustrating to you, did anybody else bring
22 ESGR to you to negotiate for them?

23 A No, sir.

24 Q She was the only one who could bring them to you because
25 she was in the military?

Schroeder - Redirect by Mr. DeRose

1 A Well, she was active. I'm not 100 percent certain that I
2 have veterans today in the facility. Could they have done
3 that? I don't know that. But she was our active reservist, of
4 course.

5 Q And she was the only one?

6 A That's correct.

7 Q She was in a class by herself. Had different issues than
8 anybody else you were dealing with?

9 A I wouldn't say dealing with. You mean working with?

10 Q I mean negotiating with when she says, "I'm entitled to
11 this." And you said, "Nobody else gets this. Why are you?"
12 Right?

13 A Those would not be my words, sir.

14 Q Sir, but you had to make special allowances for her from
15 2005 until she got fired in November 2011, correct?

16 A I did that all of the time. Numerous occasions documented
17 throughout yesterday and today.

18 Q And you found that frustrating because she had kept telling
19 you what her rights were and you had to go look them up and
20 learn them, right?

21 A No, that wasn't it. What the challenge was was that we
22 made good faith efforts to accommodate her when we thought it
23 was best, with a lack of knowledge about how everything worked
24 until we got clarification and support and better information
25 bought our way. When we did that, she often balked at it and

Schroeder - Redirect by Mr. DeRose

1 said, no that doesn't work.

2 Q And if someone else didn't keep in touch with you for four
3 days, and you didn't know where they were, when they came back
4 to work you could fire them, wouldn't you?

5 A Every case is different, sir. I wouldn't say that that's
6 the --

7 Q Well, if someone came back and didn't have a good excuse
8 for being gone for five days, that would the end of their work
9 for a company where you had four or five thousand people
10 applying for a job.

11 Is that a fair statement?

12 A Every absence, every case is different, sir. And that
13 would have to be decided and discussed.

14 Q Try the one I'm suggesting. Somebody doesn't come back for
15 four or five days, doesn't keep in touch with you, which you
16 could have issues with, doesn't have any good reason for not
17 being there, that would be reason enough for you to say you can
18 keep on walking because you're not working here anymore.

19 A Sir, I would immediately go to my human resource business
20 partner to get guidance and support how to manage that.

21 Q Yeah, and if they didn't have a good reason, you would let
22 the person go, wouldn't you? Part of this is not that -- I
23 think you're good manager, aren't you?

24 A I think I'm a good manager.

25 Q All right. So if somebody doesn't show up for five days

Schroeder - Redirect by Mr. DeRose

1 and they had no good reason, you would fire them?

2 A I would have to seek guidance from HR and look at Volvo's
3 policies on that.

4 Q Now, you just said a few minutes ago that when Ms. Arroyo
5 didn't show up on the 19th, you got the order and then you
6 said, "Okay. Everything's all right," didn't you?

7 A What are you referring to, sir?

8 Q On more -- November -- wait, I have it here. Hold on. Go
9 back to the exhibit, Defendant's Exhibit 43 they showed you a
10 little bit ago.

11 Caitlyn, will you put up the first page of Exhibit 43,
12 please?

13 A Forty-three?

14 Q Yes, sir. Please.

15 THE COURT: And this can go to the jury as well.

16 THE WITNESS: This doesn't go to 43.

17 MR. McMAHON: 43 is loose. We had to introduce it
18 separately.

19 THE COURT: It's not in the binder then.

20 MS. DeROSE: Do you want me to put it on the Elmo?

21 MR. DeROSE: Could you please put up your 43? You had
22 it up there.

23 THE COURT: So we need to go to defense and then Ms.
24 Wilson will help us out there. That's not it? There it is.

25 THE WITNESS: It says 43 on it.

Schroeder - Redirect by Mr. DeRose

1 THE COURT: Okay. We're all set now.

2 THE CLERK: Could we keep them all on it?

3 THE COURT: The jury can have it.

4 THE CLERK: Okay. There we go.

5 MR. DeROSE:

6 Q Now, you got this on 11-19-2008, correct?

7 A That's correct.

8 Q And you read it to the jury?

9 A Correct, I did.

10 Q And the author of it, Sergeant Isler -- or excuse me,
11 Captain Isler. I don't want to demote him. He said, "Sergeant
12 Arroyo will be on order." You didn't get an order on her on
13 the 19th, did you? You told Counsel you did.

14 A I believe it's attached to it, sir.

15 Q All right. Can you put that order up, please?

16 MS. WILSON: I would be happy to.

17 MR. DeROSE: Thank you.

18 BY MR. DeROSE:

19 Q Now, you couldn't possibly have gotten this on the 19th,
20 could you?

21 Look at the bottom of it, sir. The date that it's
22 signed by Luzmaria Arroyo.

23 A That says 11-26.

24 Q So you couldn't possibly have gotten it on the 19th like
25 you told us this morning, could you?

Schroeder - Redirect by Mr. DeRose

1 A Well, I never looked at the second page. I looked at the
2 first page. And it says that she is going to be on orders. I
3 assumed this was attached to it.

4 Q Well, as a matter of fact, it's written on -- it's got the
5 date 11/26 in handwriting at the bottom in a couple of places.
6 And Captain Isler, who I believe is the captain on the first
7 page, he told you on the first page the orders will be issued,
8 and they haven't even been drafted yet.

9 A Well, on the first page it says the orders weren't
10 published until the 14th. I am just going by what I'm looking
11 at, sir.

12 Q All right. But you couldn't have gotten the document that
13 has handwriting on it dating it seven days later by the same
14 captain and Ms. Arroyo, correct?

15 A I see her signature on November 26th. It makes no sense.
16 I agree.

17 Q So actually, you don't know when you got those orders; is
18 that a fair statement?

19 A I can't be sure. I do have the fax that says is 11-19,
20 clarifying that there were orders when we didn't know that
21 previous to that.

22 Q And those are verbal orders that a military veteran has to
23 follow just like he or she has to follow written orders?

24 A Correct. Verbal orders are sufficient, of course.

25 THE COURT: Caitlyn, take this back.

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1 MR. DeROSE: All right. Five minutes, and you will
2 pull out the rug from under me, please.

3 THE COURT: Only metaphorically, I promise.

4 MR. DeROSE: All right. Caitlyn, put up 265 for the
5 jury, please.

6 MS. DeROSE: I am going to put up Defendant's Exhibit.

7 MR. DeROSE: All right. That would be 15. Do you
8 have the ability to put it up?

9 MS. DeROSE: Yes.

10 THE COURT: So we're on to Defense 15?

11 MR. McMAHON: Yes, Judge, it's the same as my 265.

12 THE WITNESS: Where should I look, sir?

13 MR. DeROSE: Hold on, you can look on the screen.

14 THE COURT: The binder, Exhibit 16.

15 BY MR. DeROSE:

16 Q All right. Sir, you say this shows all of the excused
17 absences that you or someone that doesn't have it on your name,
18 someone in control over there excused an absence for Arroyo,
19 right?

20 A Yes, this is her attendance records.

21 Q Did Pat Dunn have the right to excuse tardiness or a whole
22 day absence if he wanted?

23 A It would be, if the supervisor -- if there was
24 documentation provided a supervisor could excuse an absence.

25 Q Or if he or she was satisfied for the reason for whatever

Schroeder - Redirect by Mr. DeRose

1 it was, 12 inches of snow on the ground and the person couldn't
2 make it in, they could excuse the person, right?

3 A Extreme weather was always decided by the manager.

4 Q And that would only be you?

5 A That is correct.

6 Q All right. And -- excuse me, Judge. If you look in the
7 year 2010, there were three excused absences for Ms. Arroyo in
8 2010 in November, I believe.

9 Do you see it?

10 A I see that. November 10 to November 12, call-in sick, it
11 was documented excused and there was three -- she used three
12 days.

13 Q Why?

14 A I have no idea, sir. That would be in our archived payroll
15 records from 2010.

16 Q It wouldn't reflect on there if she was calling in sick or
17 saying, I can't work today"?

18 A I don't understand the question, sir.

19 Q You don't have -- looking at that, you can't tell us why
20 three days were excused?

21 A Because it was documented. She provided a document. It
22 says right there. She called in sick and she provided a
23 document.

24 Q Oh. She did call in sick. All right. Because I can't see
25 that.

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1 A Oh, I am sorry. It says "called in sick," and it was
2 documented and she was excused.

3 Q Now, the next month, and by the way, that's an
4 inconvenience for you if you lose an employee to pick and pack
5 for a whole day, right?

6 A Of course not, sir. That happens frequently all of the
7 time when you have many employees.

8 Q You've got the chart there in front of you. Do you
9 remember at Christmas time, Christmas is a month later. She
10 goes to the emergency room and then it takes about two months
11 for them to tell her she has got PTSD.

12 Do you remember how we went through all of that?

13 A I see that that's when she was on accident/sickness as of
14 December 23.

15 Q All right. And then you'll notice, sir, thereafter that
16 she's asking for time for -- to go to therapy sessions, group
17 therapies with other vets with PTSD, and she is asking for a
18 meditation room. Look from that day forward, from that last
19 excused absence in November of 2010, and now that you know she
20 has got PTSD, and needs all of this help from you, she never
21 gets an excused absence for the rest of her employment until
22 she gets fired the following year on November 8th. Is that
23 correct?

24 A Under the attendance policy for 2011, there was a long
25 period for months of accident and sickness. There's multiple

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1 military leave --

2 Q But those were not excused absences.

3 A There is no excused.

4 Q You never had to use your own -- she had a reason for all
5 of those because she had doctors saying, "You've got to let her
6 go. She's not fit for work."

7 A Well, of course, under short-term disability act of
8 sickness, of course.

9 Q And from the day forward when you knew that she was asking
10 for all of this extra help, never again did you excuse even her
11 being late one minute?

12 A In accordance with the attendance policy, there's nothing
13 in 2011 that shows that she provided documented reasons for her
14 excused absences.

15 MR. DeROSE: Judge. I bet it's 2:45.

16 THE COURT: Mmm, you're right on time. I have 12:45.

17 MR. DeROSE: I quit, Judge.

18 THE COURT: Okay. Wonderful.

19 Did you have a minute or less of redirect? Because if
20 do I will give it to you now. Otherwise I will give it to you
21 after lunch.

22 MR. McMAHON: I will take it after lunch.

23 THE COURT: After lunch. You've got it. Thank you
24 everybody. We'll only do an hour for lunch to because I really
25 want to see if we can get the next witness through. So I will

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1 see you guys at 1:45. It's the usual reminder. It's always
2 please don't discuss this amongst yourselves or with yourself,
3 I suppose. Thank you so much, everybody. We will see you in
4 an hour.

5 THE CLERK: All rise. Court stands in recess.

6 (Jury out.)

7 THE COURT: Have a good lunch, everybody.

8 (Proceedings concluded.)

9 * * * * *

10 C E R T I F I C A T E

11 I certify that the foregoing is a correct transcript from
12 the record of proceedings in the above-entitled matter.

13
14 /s/Kristin M. Ashenhurst, CSR, RDR, CRR January 23, 2018
15 Kristin M. Ashenhurst, CSR, RDR, CRR Date
16 Federal Official Court Reporter
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